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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, the giver of every good gift, thank You for quiet harbors of peace where we may bow in prayer and seek Your grace and wisdom.

Guide our Senators during this season when vast issues are at stake. As they serve You and country, keep them mindful of the great tradition in which they stand, enabling them to rise to greatness of vision and action.

Lord, with confidence, we commit ourselves and our Nation to You, who knows the road we travel and has promised to bring us to a desired destination. May we continue to expect great things from You, as we attempt great things for You.

We pray in Your gracious Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 3, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, we will move directly to the bill. If Senator MCCONNELL wishes to speak, he has that right. We will move to H.R. 4213, the Tax Extenders Act. Last night, we were able to reach agreement on the next amendments in order. Those amendments will be offered soon, and I hope we will be able to reach agreement to vote in relation to the pending amendments. I am going to offer an amendment on behalf of Senator MURRAY. Senator SANDERS will offer one. Then there will be two Republican amendments. We have to kind of clear the decks. There will be no more amendments until we can make some arrangement to dispose of what has already been laid down. We have three. These four more means seven amendments. There will be two Democratic amendments this morning, two Republican amendments. That will mean a total of seven amendments. We have to take a pause then and try to get rid of some of these, voting on them before we move to others.

We can now move to the bill, Mr. President.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

TAX EXTENDERS ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4213, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

Baucus amendment No. 3336, in the nature of a substitute.

Sessions amendment No. 3337 (to amendment No. 3336) to reduce the deficit by establishing discretionary spending caps.

Thune amendment No. 3338 (to amendment No. 3336) to create additional tax relief for businesses.

Landrieu amendment No. 3335 (to amendment No. 3336) to amend the Internal Revenue Code of 1986 to extend the low-income housing credit rules for buildings in the GO Zones.

AMENDMENT NO. 3356 TO AMENDMENT NO. 3336

Mr. REID. Mr. President, I send an amendment to the desk on behalf of Senator MURRAY and others. This is No. 3356.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. MURRAY, for herself, Mr. HARKIN, Mrs. BOXER, Mr. BEGICH, and Mr. BURRIS, proposes an amendment numbered 3356 to amendment No. 3336.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funding for summer employment for youth)

At the appropriate place, insert the following:

SEC. ___. TRAINING AND EMPLOYMENT SERVICES.

(a) ADDITIONAL AMOUNT.—There is appropriated for fiscal year 2010, for an additional

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

amount for ''Training and Employment Services'' for activities under the Workforce Investment Act of 1998 (referred to in this section as the ''WIA''), $1,500,000,000. That amount is appropriated out of any money in the Treasury not otherwise appropriated. The amount shall be available for obligation for the period beginning on the date of enactment of this Act.

(b) ACTIVITIES.—In particular, of the amount made available under subsection (a)—

(1) $1,500,000,000 shall be available for grants to States for youth activities, including summer employment for youth, which funds shall remain available for obligation through September 30, 2010, except that—

(A) no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA;

(B) for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities for fiscal year 2010 does not exceed $1,000,000,000;

(C) with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting ''age 24'' for ''age 21'';

(D) the work readiness aspect of the performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds; and

(E) an amount that is not more than 1 percent of the funds appropriated under subsection (a) may be used for the administration, management, and oversight of the programs, activities, and grants, funded under subsection (a), including the evaluation of the use of such funds; and

(2) funds designated for the purposes of paragraph (1)(E), together with funds described in section 801(b) of Division A of the American Recovery and Reinvestment Act of 2009, shall be available for obligation through September 30, 2012.

Mr. REID. This amendment I offer on behalf of Mrs. MURRAY, Mr. HARKIN, Mrs. BOXER, Mr. BEGICH, and Mr. BURRIS. This, of course, is to the amendment proposed by Senator BAUCUS.

AMENDMENT NO. 3353 TO AMENDMENT NO. 3336

(Purpose: To provide an emergency benefit of $250 to seniors, veterans, and persons with disabilities in 2010 to compensate for the lack of cost-of-living adjustment for such year, and for other purposes)

I ask unanimous consent that amendment No. 3353 be called up now.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. This is on behalf of Senator SANDERS, Mr. DODD, Mr. WHITEHOUSE, Mr. LEAHY, and Mrs. GILLIBRAND.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. SANDERS, for himself, Mr. DODD, Mr. WHITEHOUSE, Mr. LEAHY, and Mrs. GILLIBRAND, proposes an amendment numbered 3353 to amendment No. 3336.

Mr. REID. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The text of the amendment is printed in the RECORD of March 2, 2010, under ''Text of Amendments.'')

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

HEALTH CARE

Mr. MCCONNELL. Mr. President, most Americans breathed a sigh of relief in January when it looked like the Democrats' partisan plan for health care was done for. Most people saw the outcome of the Massachusetts Senate race as an opportunity to start over on what they wanted, which is a step-by-step plan that would target costs without raising taxes or insurance premiums, without cutting Medicare, and without using taxpayer dollars to cover the cost of abortions.

Unfortunately, the proponents of this plan are still determined to force this distorted vision of health care reform on a public who is already overwhelmingly opposed to it. So this afternoon the President will outline yet another version of the Democratic health care plan we have been hearing about all year long. The sales pitch may be new, but the bill is not.

We got a preview of the administration's new sales pitch yesterday in a letter from the President, in which he said he is now willing to incorporate a few Republican ideas into the Democratic bill. But this is not what the American people are asking for.

Americans do not want us to tack a few good ideas onto a bill that reshapes one-sixth of the economy, vastly expands the role of government, and which raises taxes and cuts Medicare to pay for all of it. They want us to scrap the underlying bill—scrap it altogether—and start over with step-by-step reforms that target cost and expand access.

This whole exercise is unfortunate and completely unnecessary. It is also a disservice to the American people. The fact is, the longer the Democrats cling to their own flawed vision of reform, the longer Americans will have to wait for the reforms they want.

Last week's health care summit could have served as the basis for a series of step-by-step reforms that both parties could support and which the general public would embrace. Unfortunately, Democrats in Washington have decided to press ahead on the same kind of massive bill they were pushing before the summit. Even worse, they now seem willing to go to any length necessary—any length necessary—to force the bill through Congress.

Well, Americans do not know how else to say it: They do not want the massive bill. It is perfectly clear. They want commonsense, bipartisan reforms that lower costs, and they want us to refocus our energy on creating jobs and the economy. They have had enough of this year-long effort to get a win for the Democratic Party at any price to the American people. Americans have paid a big enough price already in the time we have lost focusing on this bill.

They do not want it, and they will not tolerate any more backroom deals or legislative schemes to force it through Congress on a partisan basis. History is clear: Big legislation always requires big majorities. This latest scheme to lure Democrats into switching their votes in the House by agreeing to use reconciliation in the Senate will be met with outrage.

So we respectfully encourage the administration to consider a new approach to reform, one that does not cut Medicare to fund a trillion-dollar takeover of the health care system or impose job-killing taxes in the middle of a recession, and one that will win the support of broad majorities in both parties. We encourage the administration to join Republicans and Democrats in Congress in listening to what the American people have been telling us for more than a year now.

At the risk of being redundant, here is what they are saying: Americans are telling us to scrap the bills they have already rejected and start over with commonsense, step-by-step reforms we can all agree on. Now is not the time to repeat the same mistakes that brought us here. It is time to listen to the people and to start over.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, last night, I met the mayor of Kankakee, IL. She told me about a problem she has. Kankakee has 28,000 residents. The economy has hurt them. They have lost sales tax revenues. They do not have the income they had just last year. Their annual budget is $20 million for the city of Kankakee. That is for all the services they provide.

Ten percent of that budget—$2 million—goes for the health insurance of the workers in that town; about 200 of them—10 percent, $2 million. So they went to their insurance company and said: What will the insurance cost us this year? The health insurance company said: Your rates are going up 83 percent—83 percent. What had cost them $2 million last year will cost them almost $4 million this year.

When I listened to the speech from the minority leader, the Republican leader, who says: Start over, go slow, baby steps, we do not want to do anything that is big or addresses this problem in any kind of comprehensive way, I think to myself: Does he understand the reality of what businesses, families, small towns, and large cities are

facing across America? The Kankakee example is not unique. Just a couple weeks ago, in California, Anthem Blue Cross and Blue Shield announced a 39-percent increase in health insurance premiums next year.

If you look at what the average family paid for health insurance 10 years ago, it was about $6,000 a year—$500 a month. It is a lot of money. But that was 10 years ago, and it has doubled in the last 10 years. It is now $12,000, the average premium paid by a family of four across America.

But what will happen in the next 8 to 10 years? It will double again. Can you imagine the job you will need 10 years from now that will generate $2,000 a month just for health insurance premiums, before you take the first penny home to pay your mortgage or feed your family or provide for your kids' college education? That is the reality of the call by the Republican side of the aisle to go slow, start over.

No. Their go slow, start over can be translated into two words: ''Give up.'' We are not going to give up. They call for common sense. Our approach to health care reform is grounded in common sense. Let me tell you what the basics are.

The basics are, small businesses across America need to have choice and competition. We create insurance exchanges. I went to the President's health care summit last week, and I listened to the Republicans say: Do you know what is wrong with the health care reform bill? No. 1, it is a government-run program. Well, it is not. It is private health insurance companies brought together by the government to compete for the business of individuals and small businesses. They said: Do you know what else is wrong? They put minimum requirements on health insurance plans, minimum requirements of what they will cover. You ought to let the health insurance companies offer whatever they want. If they want to offer something that is virtually worthless, that is their business. Let the consumers decide.

I said at that health care summit meeting: Isn't it amazing that Members of Congress, who are part of the Federal Employees Health Benefits Program, including the Republican House and Senate Members who sat in that summit, have their families protected by a government-run health care plan, which establishes minimum requirements for health insurance to protect our families? Yet when we suggest doing that for the rest of America, the conservative Republicans say: You have gone too far. That violates some basic values and principles.

If they were honest about it, they would have walked right out of that summit and turned in their Federal Employees Health Benefits Program cards and said: We are out of here. This is socialism. We are not going to be part of it. But, no, they want to enjoy the benefits of a government-run plan, with minimum benefits outlined and described for their families. They do not want other people to have it. That is wrong. It is not only wrong, but it is unfair. It is unfair to the families across America who deserve the same kind of protection in health insurance Members of Congress have.

So the first commonsense part of our health care reform is insurance exchanges, where private companies compete for the health insurance business of small businesses and individuals—competition and choice.

The second commonsense part of health care reform says, it does no good to own a health insurance policy which isn't there when you need it. You pay a lifetime of premiums, and with one accident, one diagnosis, you are stuck with a huge amount of medical bills, and the health insurance company says: We took a close look at your application for health insurance, and you failed to disclose you had acne as a teenager—I am not making this up—so we are going to deny you coverage for the cancer therapy you are going to need—I am not making this up—or they say: You didn't tell us you had an adopted child in your family. That is another preexisting condition. Did you know that? It is. In the list of preexisting conditions, it includes things such as that, and that is what happens—the tricks and traps in health insurance that yank coverage from you when you need it the most.

This bill, the health care reform bill we are working on, starts to change that relationship and gives the consumers across America a fighting chance to fight back when they are denied coverage for a preexisting condition, to fight back when they say there is a cap on the total amount they are going to pay in your lifetime, to fight back when they say you cannot take your insurance with you when you leave a job, to fight back when parents realize when their kids get out of college, the family health insurance plan cannot cover them anymore.

Those are basic health insurance reforms that embody common sense. The Senator from Kentucky, Mr. MCCONNELL, comes here and says: We have to junk this big government plan. It is so wildly unpopular. Is it unpopular to offer choice and competition to small businesses? Is it unpopular to give consumers a fighting chance against health insurance companies?

There is a third aspect too. We asked the Republicans at the health care summit: If you accept the obvious—that 50 million uninsured Americans get sick, go to hospitals, are treated, and the cost of their care is then passed on to everyone else—if you accept that, what are you going to do about it? They said: Oh, we have an answer to that. Fifty million uninsured Americans? We will deal with that. We will take care of 3 million of them—3 million of them. Six percent of them we will take care of.

Well, the bill we are supporting, the health care reform bill we are supporting, takes care of 30 million. I wish it were 50 million, but it takes care of 60 percent, over half of them. The hospital administrator at Memorial Medical Center in Springfield, IL, said to me: Senator, if I don't have to give out all this charity care, I can contain my costs and build the hospital and even make it greater for this community. But I have to absorb charity care for uninsured people because we do that in America. Put more of them on insurance and we will have more revenue coming in. I would not have to transfer their cost burden to other families. I will do better as a hospital. We will do better as a community.

I think he is right. It is common sense. The Senator from Kentucky says we need common sense. That is part of it. I think we also need common sense when it comes to Medicare. Medicare, of course, was created almost 50 years ago. Those who opposed it said: Too much government. Those who supported it said: How else can we provide for the elderly and retired, giving them basic health care protection, if we do not have an insurance plan across America that we contribute to as we work and is available for us when we retire?

What happened when Medicare was passed? Senior citizens started living longer, better, more independent lives. The record is there. It is clear. It worked. We want it to continue to work. But the problem is, as the costs of health care skyrocket because of baby steps and no steps recommended by the other side of the aisle, as the costs skyrocket, Medicare costs do as well. It only has about 9 years left before it goes into the red.

Well, the bill we are proposing, the health care reform bill, will extend the life of Medicare another decade. I wish it were longer. But it certainly is a step in the right direction. How do we extend the life of Medicare? We look at the waste in Medicare today, and there is waste. Let me give you a couple numbers to compare. These numbers reflect the average cost for each Medicare recipient annually in each community. In my hometown of Springfield, IL—central Illinois, small town America I am honored to represent—$7,600 a year, average cost per Medicare recipient. Rochester, MN—home of one of the greatest hospitals in America, the Mayo Clinic, a place I dearly love and respect for the treatment they have given to my family—it is about the same, $7,600 a year, average cost for Medicare recipients. Now go to Chicago—a big city—$9,600 a year, average cost for Medicare recipients.

Now go to Miami, FL. The average cost for Medicare recipients, $17,000 a year. It costs more to live in Miami than it does in Springfield or even Rochester, MN, but twice as much? No. Something is wrong. Overpayments are obvious in Miami, FL, in McAllen, TX.

We can pick them out, and we can see we are wasting our tax dollars with too many tests, too many procedures, not

focusing on quality but quantity. Can we make this a better system? Can we keep seniors healthy and reduce costs? Of course we can. We can eliminate a lot of the waste. We can raise questions about self-dealing by doctors who make sure they send their patients to their own laboratories, using their own machines over and over again. We can do that. In doing so, we are not going to compromise the basic care Medicare recipients want.

So the Senator from Kentucky says: Too big. It is a big government program. We need to go step by baby step here. No. We need to take a look at the obvious. If we do not address Medicare and reform it the right way, in 9 years it will be in the red, going broke. We cannot let that happen. Baby steps from the other side of the aisle will not take us on this important journey to the goal we all share.

I also wish to say a word about the deficit. President Obama said to us when we started this debate: I know what our goals are, but in reaching those goals, do not add to America's debt. We came up with ways to reduce health care costs, to increase taxes on people making over $200,000 a year; not dramatic increases but, in fact, increases in taxes for them. The Congressional Budget Office says that as a result, in the first 10 years, our bill, the health care reform bill, will reduce the deficit by $130 billion, and in the second 10 years it will reduce it by $1.3 trillion, the largest deficit reduction in the history of the United States. This approach is fiscally sensible, fiscally sound.

A word before I close—I see my colleague from Iowa is on the floor and I wish to yield to him—about reconciliation. Senator GRASSLEY is on the Finance Committee. He has served on that committee for a number of years and he understands how the Senate works. When President Reagan wanted to initiate his tax cuts, he used a process called reconciliation. Reconciliation basically says no filibuster; you come to the floor, you offer your amendments and, ultimately, it is a majority vote. That is what reconciliation says.

So President Reagan used reconciliation for tax cuts. Speaker Newt Gingrich used reconciliation for his Contract With America. We have used reconciliation to create the COBRA program to provide health insurance for unemployed workers across America. Time and again we have used reconciliation for major issues involving taxes and revenue. It has been done 21 times in the last couple decades. More often, it is used by the Republican side of the aisle than the Democratic side of the aisle. To brand this process as somehow un-American and unfair is to suggest that all of the efforts by the Republicans to use this process have been un-American and unfair. I don't think that is true. It wasn't true then; it isn't true now.

What we have is a bill that has passed the Senate, the health care reform bill, which is now over in the House. The House of Representatives will decide whether they can enact the Senate version of health care reform. The follow-on bill is likely to be the reconciliation bill which will make some changes in that health care bill. It is not the total health care bill, but it will include changes. Some of the changes that are being contemplated are ones that I think most Members on both sides agree to. Should we close the doughnut hole? Well, what is the doughnut hole? It is a gap in coverage in Medicare prescription drug coverage for seniors. Should we close that gap? I think we should. That is part of it.

Second, should we try to make health insurance more affordable? Our underlying bill puts almost $450 billion in tax cuts on the table for small businesses and for individuals who cannot afford their premiums. The reconciliation bill will try to make it even more affordable.

Can we help the States with their Medicaid burdens? We should. In my State of Illinois, in Iowa, and in New Mexico, Governors are struggling. With folks on unemployment, more and more people need Medicaid. We should help to pay for it.

None of these ideas behind reconciliation—and there are other aspects to them; we are working out details on them—is radical. None of them is comprehensive in terms of changing health care dramatically in America, but they do improve on a bill that has already passed in the Senate.

The Republican leader comes to the floor and tells us this is un-American and unfair. I couldn't disagree more. Every time we hear the Republican side of the aisle say start over, I ask them, how much longer should America wait? We have been at this in the Senate now almost nonstop for over a year. The Senator from Iowa, Senator GRASSLEY, was part of a bipartisan effort, with Senator BAUCUS, a Democrat, that went through 61 separate meetings to try to find bipartisan agreement, and it didn't. I salute Senator GRASSLEY and others for trying, but it didn't. We had to move forward.

So should we start over? Should we give up the things I have talked about? Should we give up this effort to give small businesses choice and competition? Should we give up on the effort to make sure we have a fighting chance against insurance companies? Should we give up on the effort of trying to make sure that a substantial number of uninsured Americans have that protection? Should we give up on the effort of extending the life of Medicare for 10 years? Should we give up on the effort to reduce our deficit by reducing health care costs, not only for our government but for businesses and families? No. We cannot give up. We cannot give up on America. We cannot give up on this challenge. I urge my colleagues to stay the course.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, are we now on the pending legislation?

The ACTING PRESIDENT pro tempore. Yes, we are.

AMENDMENT NO. 3352 TO AMENDMENT NO. 3336

Mr. GRASSLEY. I ask unanimous consent—and I think this has been cleared with the other side—that the pending amendment be set aside for the purpose of my offering an amendment and giving short debate on my amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. CRAPO, Mr. ENSIGN, Mr. HATCH, and Mr. ROBERTS, proposes an amendment numbered 3352 to amendment No. 3336.

Mr. GRASSLEY. I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, March 2, 2010, under ''Text of Amendments.'')

Mr. GRASSLEY. Mr. President, a couple of days ago I stated that I had worked in early February to put together a bipartisan package with my colleague, Finance Committee Chairman BAUCUS, to address some time-sensitive matters that needed to be considered. So I find it surprising we are taking up a package this week that, as was last week's exercise, is still a partisan product belonging to the Senate Democratic leadership. We are not taking up the bipartisan package I put together with Finance Committee Chairman BAUCUS.

The Senate Democratic leadership arbitrarily 2 weeks ago decided to replace the Baucus-Grassley bipartisan bill with one that is dramatically different. That partisan package is almost three times the size and significantly greater in cost than the bipartisan bill Senator BAUCUS and I announced on February 11. It is unfortunate that the Democratic leadership failed to ensure that these critically needed Medicare provisions were extended at the end of last year, and then they failed to extend the provisions that had expired in 2009 for over 2 months.

So, today, this present situation I just described brings me to the offering of this amendment. This amendment would ensure that Medicare provisions are fully offset, and my amendment would also extend the physicians update through the end of this year. The words ''physician update'' are directly related to the formula used to determine Medicare payments to physicians. On February 28, the extension expired and physician payments were scheduled to be cut by 22 percent under the existing formula, except just recently that was extended so that doesn't actually happen. But this on-again, off-again situation that doctors are put in

ought to end, and this amendment I offer will make sure that doesn't happen through all of 2010.

I wish to make very clear this isn't just for doctors, even though it affects just doctor payment. These provisions are also essential to the health and well-being of every Medicare beneficiary. This is the fiscally responsible way to extend them. We ought to pay for them.

These Medicare provisions have been routinely supported by both sides, fully offset, and passed repeatedly in recent years. Now, of course, it is March 3. Medicare beneficiaries around the country are suffering from the Democratic leader's decision to abandon the Baucus-Grassley bipartisan package my colleagues and I had worked out weeks ago.

First, there is the urgently needed physician payment update, and sometimes around this town we refer to this as the doctors fix for short, to fix the formula, to bring the formula up to date so those 22-percent cuts don't go into effect. There was a doctors fix at the end of last year through a 2-month extension that expired, as I said, on February 28. So as of March 1, physicians and nurses and other health care professionals were subject to these severe cuts of 22 percent. Then, because we get a lot of calls—and my office got these calls as well—from doctors concerned about how they are going to keep their offices open, we now have a 30-day extension passed last night so these physician payments that would have been a 22-percent cut now, for 3 days, won't take place until, unless we act, the end of March. That is not a very good way to do business if you have to worry about a doctor, particularly in rural America, keeping their offices open and paying their help, so we ought to do it on a more consistent basis instead of running month to month.

These cuts to physician payments cannot be allowed to occur, and as damaging as these would be to beneficiary access to care anywhere, these cuts are even more disastrous for access to care in rural America such as in Iowa where Medicare reimbursement is already at least 30 percent lower than in other areas.

I am appalled that seniors' access to physicians and needed medical care has been handled this way because of political games that are being played by the majority leadership. Should these cuts remain in place, they will have a truly devastating effect on the ability of seniors to find doctors who take Medicare patients. Many beneficiaries have already been affected by Medicare provisions that the Senate Democratic leadership allowed to expire even last December.

One of the most urgent situations involves limitations that Medicare places on the amount of certain kinds of treatments for beneficiaries. Medicare places annual limits on the amount of outpatient physical therapy, speech language pathology therapy, and occupational therapy that a beneficiary can receive. In other words, the government is saying, regardless of how much health care you need in these areas of therapy, you can only get up to so much dollar amount.

Well, laws that have lapsed have allowed special cases to be taken care of contrary to what the law specifically says on dollar limit. In 2005, the law was changed to provide an exception process to these therapy caps for situations when additional therapy is medically needed, and that needed protection for beneficiaries then expired when the doctors fix expired on December 31. Medicare beneficiaries who have suffered strokes or serious debilitating injuries such as a hip fracture have significant rehabilitation needs.

So we are in this situation of extending this doctor fix from month to month. Situations where patients need this rehabilitation have already exceeded the caps for 2010.

Those with the greatest need for therapy will be the hardest hit. Here, again, with the 30-day extension bill having passed last night, this problem has been only temporarily fixed. This is another case where Congress is playing political games with Medicare. These should have been taken care of at the end of last year, and they could have already been resolved if the Senate had taken up the original Baucus-Grassley bill instead of replacing it with a cutback, partisan piece of legislation that the Senate handled last year or, one might say, being handled right now with this legislation now on the floor of the Senate to which my amendment is being added.

Other essential provisions we need to be looking at for extension are additional payments for mental health services. This benefits Medicare beneficiaries in need of mental health counseling, as well as veterans suffering from post-traumatic stress and other disorders since TRICARE is based on Medicare rates.

Another issue concerns additional payments for ambulance services that many ambulance providers need to keep their doors open. Those provisions also expired at the end of last year, but they were not extended in the 30-day bill voted on last night.

Another important issue affects community pharmacies. Pharmacies that have not gone through the accreditation process will soon be forced to turn away Medicare beneficiaries. A provision in my amendment would ensure that beneficiaries who need vital medical supplies, such as diabetic test strips, canes, nebulizers, and wound care products, can continue to have access to these products through their community pharmacy.

Many eligible professionals, such as physicians, nurse practitioners, physical therapists, and others, have been specifically exempted from this accreditation requirement. This provision would also exempt community pharmacies under certain conditions.

A number of other expired provisions are extended in this package. They include improved payments for hospitals, especially rural hospitals, that rely on these provisions just to keep their doors open. Like many others, these problems are not fixed in the simple 30-day bill passed last night. These problems remain.

The impact of a hospital shutting its doors would be especially hard on rural and underserved areas where hospitals offer the only access to health care.

We need to pass this critically needed and fiscally responsible amendment now. I urge my colleagues to support it. That is what I have to say on my amendment.

I would like to take a couple minutes to respond to a couple issues that Senator DURBIN brought up. I am not here to refute anything he said but to give an addendum to what he said on a couple points.

One is the use of reconciliation and the opposition that I think is pretty unified on this side of the aisle that the name of the game should not be changed. He did not say anything inaccurate. But when it comes to reconciliation on a massive 2,700-page bill that we call health care reform—that is a partisan bill—the same bill that passed Christmas Eve in this body, never has reconciliation been used to reorganize one-sixth of the entire economy. In other words, about $2.5 trillion out of a $14 trillion economy is being reorganized by that health care reform bill.

I say to Senator DURBIN, that is quite a bit different than using reconciliation for a tax bill or for a Medicare reform bill or to save money on certain entitlement programs. It is like peanuts compared to a massive restructuring of one-sixth of the economy. That is why we say reconciliation should not be used.

A second point for not using reconciliation is the fact that this bill has been turned down by the vast majority of the American people. There is overwhelming opposition to this 2,700-page bill, albeit not overwhelming opposition to the issue: Is the present health care system adequate and should it be changed. I think a slight portion of the American people would say yes, and I think most of the 100 Senators would say yes to that. But for this 2,700-page bill, 70 percent of the American people have said it needs to be started over again with a clean sheet of paper.

Then on the issue he brought up of extending Medicare for 10 years, that is true if you use the double accounting in the bill. The Congressional Budget Office has stated that it is using double accounting. That is not the way you can intellectually count money twice. The Congressional Budget Office, in a paper I read to the President at the summit last week, claims it is double accounting. That is not the way to do business.

You can extend the viability of any program by a lot if you are going to count money twice, but you cannot do

that. Some of the problems with the 2,700-page bill, the American people understand. That is why they rejected it. That is why we say reconciliation should not be used, and that is why we say we should start over and do things incrementally.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANDERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3353

Mr. SANDERS. Mr. President, the amendment I want to speak on is No. 3353. This amendment is extremely simple and it is extremely straightforward.

At a time when millions of senior citizens, veterans, and persons with disabilities have slipped out of the middle class and into poverty; at a time when the cost of prescription drugs, medical care, and heating oil have gone through the roof in many parts of our country; at a time when millions of seniors have seen the values of their pensions, their homes, and their life savings plummet; at a time—and here is the important point—for the first time in 36 years, seniors will not be receiving a COLA in their Social Security benefits.

The amendment I am offering today with Senators DODD, LEAHY, SCHUMER, KERRY, WHITEHOUSE, MIKULSKI, GILLIBRAND, LAUTENBERG, and BEGICH will provide over 55 million senior citizens, veterans, and persons with disabilities $250 in much needed emergency relief. This $250 emergency payment is equivalent to a 2-percent increase in benefits for the average Social Security retiree, and it is, as you will recall, the same amount seniors received last year as part of the Recovery Act. In other words, what we are doing now is exactly the same as we did last year with the Recovery Act.

I do not know about New Mexico, but I do know that in Vermont, a lot of senior citizens and disabled veterans are wondering this year why they are not receiving a COLA. They have written to my office and they are saying to me: Hey, I don't know what you are talking about because my costs have increased over the last year. That is because, in fact, while inflation may not have gone up in general, those areas elderly people and people who have health problems utilize—prescription drugs, health care, other health-related issues—those costs have gone up very substantially. I think there is an awareness all over this country that we cannot, in the midst of this recession, turn our backs on disabled veterans and seniors.

This amendment has widespread support from organizations representing tens of millions of Americans. Among the organizations that are supporting this amendment are the AARP, the largest senior group in America; the American Legion, the largest veterans group in America; the Veterans of Foreign Wars; the National Committee to Preserve Social Security and Medicare; the Disabled American Veterans; AMVETS and OWL and many other organizations.

Money directed to this population will go almost immediately into the economy. So when we talk about stimulus, I don't know of a better way to get money out into the economy than passing this amendment.

I am also very happy and delighted that President Obama is very strongly supportive of a $250 emergency payment to seniors. As you know, the President has spoken out on this issue, he has also included it in his budget, and he has also recommended that it be included in the underlying legislation we are debating today.

Here is what President Obama has said about this issue:

> Even as we seek to bring about recovery, we must act on behalf of those hardest hit by this recession. That is why I am announcing my support for an additional $250 in emergency recovery assistance for seniors, veterans, and people with disabilities to help them make it through these difficult times. These payments will provide aid to more than 50 million people in the coming year, relief that will not only make a difference for them, but for our economy as a whole, complementing the tax cuts we've provided working families and small businesses through the Recovery Act. This additional assistance will be especially important in the coming months as countless seniors and others have seen their retirement accounts and home values decline as a result of this economic crisis.

That is the end of the quote by President Obama. I very much appreciate the President speaking out and fighting for senior citizens and the disabled with regard to this issue.

I can tell you that just on Monday I had a meeting with senior citizens and senior citizens organizations in the State of Vermont. It was a very distressing meeting. When we talked, for example, about nutrition programs, the Meals on Wheels program or the congregate meals programs by which seniors come to senior citizens centers to get a decent lunch, what people are telling me is that for the first time in many years, when seniors are asked to put money into an envelope—and very carefully, the senior centers don't want to know what people contribute. They ask for, say, $2 or $3, but people can contribute whatever they want. What they are noticing now is that more and more seniors are putting nothing into the envelope or maybe just $1. They are seeing the same process when people get out in their cars and they deliver Meals on Wheels to very fragile and frail people, often in rural areas, and people don't even have the money, now, to even pay $2 for a lunch.

All over this country, seniors are hurting. I think they are upset and distressed that they are not getting a COLA this year. Essentially, what this payment is about is a substitute for a COLA. It is a 1-year payment, and it is the equivalent of about a 2-percent COLA.

Let me mention the response of some of the veterans organizations. This amendment, importantly, will be helping our disabled veterans. Here is what the VFW said in support of this amendment:

> This year, veterans and seniors will not receive a COLA. This could not come at a worse time. Your legislation would provide a one-time check of $250 to 1.4 million veterans, 48.9 million Social Security recipients, and 5.1 million SSI recipients. We believe that this will provide some relief to those veterans and seniors living on fixed incomes who rely on a COLA to keep up with daily living expenses. The VFW commends you for concentrating on changes that can positively impact the lives of others and looks forward to working with you and your staff to ensure passage of this legislation.

I thank the Veterans of Foreign Wars for the great work they do and for supporting this amendment. We appreciate their support.

Let me quote a letter I recently received from another organization that has been very strong for many years in fighting for senior citizen rights; that is, the National Committee to Preserve Social Security and Medicare. This is what the national committee says:

> The National Committee strongly urges you to pass legislation to provide a $250 payment to our Nation's seniors who did not receive a COLA this year. It is vitally important that we provide help for seniors of modest means who have been adversely affected by the economic recession and rapidly rising health care costs. Seniors have been especially hard hit by the 20 percent to 30 percent decline in the value of employer pensions, IRAs and 401(k)s, as well as the steep drop in housing values. And, unlike younger Americans, the elderly are much less likely to recover their savings losses due to their shorter economic horizon.

That is from the National Committee to Preserve Social Security and Medicare. We very much appreciate their support for this amendment.

Here is a quote from the AARP, which represents over 40 million Americans, and we very much appreciate their support. This is what the AARP says:

> For over three decades, millions of Americans have counted on annual increases to help make ends meet. In this economy, having this protection is even more critical for the financial security of all older Americans. AARP applauds the President for urging Congress to extend for 2010 the $250 economic relief provided to older Americans last year. The 65-plus population is facing extreme financial hardship. Older Americans are paying more out of pocket for medical care, have experienced a real decline in their retirement accounts and in housing values, face longer periods of unemployment for those who need work, and low returns on interest bearing accounts. Without relief, millions of older Americans will be unable to afford skyrocketing health care and prescription drug costs as well as other basic necessities. AARP will continue to work with Members of Congress from both sides of the

aisle to provide $250 in economic relief to millions of seniors who count on Social Security to pay their bills.

Here is the point, the point the VFW has made, the national committee has made, the AARP has made. Some people may say $250 is not a lot of money, but the truth is, if you are a senior in the State of Vermont or in any other State in this country and your health care costs are going up and your prescription drug costs are going up and your heating bills are going up and you are not getting any COLA this year, you are in trouble. You are in real trouble. I do not want to give any illusion that this $250 is going to turn people's lives around. It is not. But it is going to make a real difference in giving people a little bit of support, making their lives just a little bit easier.

This is extremely important legislation, and it is important legislation that I hope can have widespread bipartisan support.

Once again, I thank all the organizations that are supporting this amendment; that is, the AARP, the American Legion, the Veterans of Foreign Wars, the National Committee to Preserve Social Security and Medicare, the Disabled American Veterans, AMVETS, and OWL as well.

The bottom line is, we are in the midst of a very serious recession. We are doing our best to try to figure out ways to create the millions of good-paying jobs working people need. We are going to pass COBRA to make sure when people lose their jobs they do not lose their health insurance. We are going to extend unemployment benefits. But in the middle of all of that, let's not forget our parents and our grandparents. Let's not forget senior citizens and disabled veterans. Let's pass this amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNET. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNET. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFORMING THE SENATE

Mr. BENNET. Mr. President, I would like to take a couple of minutes this morning to talk about something that not only affects the legislation currently on the floor but everything we are currently working on in the Senate.

Before coming to the Senate a little over a year ago, I spent my life in the real world—the world of business, of local government, of public schools and, most importantly of all, of family. But since coming to Washington, I have discovered that many people learn to live in an entirely different world, an echo chamber, shut off from the reality of life in America that defies common sense at every turn and uses anonymous holds to defy the rule of reason.

I used to tell my little girls that ''Alice in Wonderland'' was just a fairy tale. But now I am not so sure. If you come from the real world, when you get to Washington, to Wonderland, the logic can seem upside down or inside out or just plain wrong. Here, it turns out that folks attack you when you do not cut backroom deals at the taxpayers' expense. Here, a lot of people seem to think that saying they are for doing something, such as extending unemployment benefits or passing a jobs bill, is exactly the same thing as actually rolling up their sleeves and getting it done. They think that blaming failure on their opponent is the same thing as fighting for real change.

Coloradans and Americans are reading their papers and watching their televisions, and what they see drives them nuts. It should because all they find are talking heads yelling at each other on cable news and cynical, reckless partisanship paralyzing their government. This phony political conversation will not do when we need real change.

But Washington cannot seem to get out of its own way. That is why I will introduce legislation to end lobbyist abuses, reform the ways of the Senate, stop the outside influences of special interests, and put Washington to work for the people of Colorado.

First, we need to hold Congress accountable. We should freeze the pay and office budgets of every Member of Congress until we have four quarters of job growth. Our salaries and office budgets should not go up when the rest of the country is struggling. Members of Congress should lose their taxpayer-funded health insurance until we pass health insurance reform. If Congress cannot get its act together on health care, then the American people should not subsidize health care for Congress. That goes for Democrats and Republicans. It turns out the dysfunction in Washington is just another kind of pre-existing condition that allows the insurance companies to get their way.

Second, we need real lobbying reform that restores power to the voters. We need to ban Members of Congress from becoming lobbyists when they leave office. We need to do something about the revolving door between Congress and K Street. We need stronger rules and tighter standards for lobbyist registration and real penalties for those who break the rules. We need to end the corporate subsidy for Members of Congress who fly on corporate jets. Every Member of Congress should pay their fair share and disclose every person who is on the plane with them.

Third, real reform will not be complete without earmark reform. The people of Colorado pay taxes, and they deserve a government that works for them. I have no issue with Members of Congress fighting for projects they think are valuable for their States or for their districts. I am proud, for example, of the funding we secured for projects, such as the Arkansas Valley Conduit, which languished in the Senate since President Kennedy first promised it to the people of Colorado. But this funding should be done in the light of day, completely transparent and accountable, not behind closed doors, hidden from the American people.

Under my legislation, Members of Congress will be required to post every earmark request they receive and every request they make for funding. But we should not wait for the law to change. There is no reason to wait for the law to change. We can start doing this now.

Second, every earmark should be listed in earmarks.gov. The Web site should be easily searchable and user friendly.

Third, Members of Congress should be held accountable for their requests. Larger earmark requests should go before the Appropriations Committee, and we should end airdrops of earmarks in conference committee.

Finally, earmark recipients should be held accountable. This means randomly auditing earmarks every year and publishing the results for our constituents to see.

Next, we need to deal with the challenge of passing real campaign finance reform that reduces the outside influence of special interests. I intend to support the bill that Senator SCHUMER and Congressman VAN HOLLEN have put together, and I urge my colleagues to do the same.

Finally, we need to reform the institution of the Senate itself. The filibuster has been used in the Senate for quite some time. It has been used by the minority to slow down debate, have their voices heard, and, in some cases, stall legislation.

I would remind members of my own party that just the threat of a filibuster stopped the privatization of Social Security. However, during this session of Congress, the right to filibuster has been abused. It has become a normal part of business, a way to stall every piece of legislation and simply slow the Senate to a crawl.

Three months ago, we spent weeks debating the extension of unemployment benefits. The bill passed 98 to 0. The Senate has spent days, weeks, and sometimes months holding up nominees who passed with more than 90 votes. To add insult to injury, one Senator held up the entire Senate, preventing us from extending unemployment benefits and COBRA. The country deserves much better than that.

I will introduce legislation that reforms Senate procedure to encourage the two parties to work together to get things done. It will eliminate anonymous holds. If Senators want to single-handedly stop a nominee from being

approved, then they should have the courage to do so publicly.

It will introduce a new procedure to allow us to reduce the time of debate so we can move on legislation that has broad bipartisan support.

Third, it will eliminate the filibuster on the motion to proceed. It is one thing to try to block a piece of legislation; it is another thing to prevent it from even being debated in the first place.

Finally, my legislation would change the rules of the filibuster to force the two parties to actually talk to each other and not past each other. The President reminded us during the State of the Union that our job is not to get elected. I have heard the same thing from thousands of Coloradans in hundreds of living rooms and townhalls. It is easy to throw our hands up in the air and wait for someone else to make the big changes we need. But we all know the American people deserve better. I know the people of Colorado expect much more. They know the Senate needs a big dose of Colorado common sense.

I know this is not easy. I know there are 100 different reasons, maybe 1,000 different reasons. Some will say: We cannot get this done. But I also know our country needs a government that works for them. I hope my colleagues from both sides of the aisle will work with me and others to make sure we get it done.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNET.) Without objection, it is so ordered.

AMENDMENT NO. 3337

Mr. SESSIONS. Mr. President, we have been talking about having a bipartisan effort to rein in spending and some of the things that we can do in that regard. So I am pleased to share a few thoughts today on the legislation that my Democratic colleague, CLAIRE MCCASKILL of Missouri, and I have offered that would ensure that we show some fiscal discipline in our spending habits.

It is not a dramatic change in what we should be doing and what I think we can do, but I think it is an action that would send a message to the financial markets in the world that we are beginning to get the message from our constituents that this recklessness and this kind of spending cannot continue.

Our legislation received bipartisan support last time. Fifty-six Senators voted for it, which is a pretty good number. But you do need to get 60 votes to pass the legislation. I think this time, with our new colleague from Massachusetts, we might be at 57 or 58, and at this point, I think others may be evaluating whether this is the kind of action they would like to support.

Let me take a minute or two to explain what our legislation attempts to do, how it can work, how it has worked in the past, and why this step is important. It would set a much firmer cap on spending. It would make it more difficult to enact spending levels that violate the budget. I wish to explain why it is something Members of both parties can support.

What we are talking about is moving beyond the budget caps that are only good for 1 year and take those budget caps, extend them for 4 years and make them statutory. It is not something that can't be changed. If there is an emergency, we can vote to change them. In fact, Congress can, with 60 votes, eliminate the whole statute and write a new statute, if we believe it is too severe. So Congress clearly would have the ability to act, if it chooses, to get around these limits on spending.

Back in the early 1990s, legislation was passed that put a statutory cap on spending. I have a chart I will show. It is kind of upside down in a way. This shows the deficits in the early 1990s. This is when we passed the legislation, the statutory cap on spending. The deficits went down until we hit surplus for 4 years in the late 1990s, early 2000.

Then this statutory cap expired. That is when deficits started going up, and they are continuing to rise. Last year's deficit was three times this amount from the year before—three times that amount—one thousand four hundred billion in debt last year, and it is expected to be one thousand five hundred billion in deficit this year, for 1 year. This is an unsustainable path.

This is a proven technique to gain control of spending. Why it was allowed to expire and not extended in 2002, I do not know. I know a number of people argued that it should be kept, and it was not.

Secondly, what is the cap? What would it be? The limit we would place on spending would be the amount President Obama asked for in his budget. It is 1 to 2 percent in the spending accounts. If you went above that, you would have to have a serious bipartisan vote of two-thirds to break that cap the President has set as the proper goal. Parenthetically, since the President submitted that budget, he has indicated he wishes to see a freeze on spending, on nondefense discretionary accounts, a flat freeze. I would be supportive of that. I would support the President in that. First, if we can get a hard limit on the 1 to 2-percent increase, we believe we will have done something worthwhile.

How would this work? If somebody came in and proposed spending levels that exceeded the specific budgetary limits as set by President Obama's budget, it could only be surpassed by waiving the statutory cap. That takes a two-thirds vote. This would have some teeth to it. We have gone back and checked. For the last 30 years and every time there has been an emergency, such an as an earthquake, an ice storm or a hurricane, the Congress has waived the budget and enacted emergency legislation with 90 votes, 100 votes, high 70 votes every single time. It is unlikely that we would see a genuine emergency not being promptly funded with emergency spending, if the Nation has to do that. I don't think that is a problem.

What we are saying is, when we have legislation come up that is not paid for, that is not accounted for, a person would be able to make a budget point of order and say: You should not have expended moneys at more than a 1-percent or 2-percent increase in this budget account, and I make a budget point of order. It would take a two-thirds vote of the Senate to waive it. It gives some real teeth to the President's budget, the same kind of teeth President Clinton had during his time in office, his or the congressional budget that was actually passed by the Senate and the House. That budget was enforceable. When it was enforceable, we achieved a surplus.

Let's be frank. It will be more difficult today to achieve a budget surplus than in the 1990s. We have a lot of different factors at work here. One of them is that the deficit is so much larger, and we have some real problems getting there. But we have to begin.

You say: Well, you have a budget. Why is this a problem? Why can't you use your budget point of order and stop spending and contain it through a rate close to inflation and lower rates than we have seen in the past?

It didn't work last year. This chart is the 2010 base increases in the year we are in today, the fiscal year 2010. It shows you how spending has increased. The chart I have does not include the breathtakingly huge $800 billion stimulus bill. Each one of these accounts got money out of that bill. I haven't even included those amounts. But look what we did the year we are in. The budget had levels below this, but eventually this is what we passed: Foreign operations, foreign aid, State Department got a 32.8-percent increase. Interior Department got a 16.6-percent increase. CJS, Commerce-Justice-State, is a 12.3-percent increase. THUD, Transportation, Housing and Urban Development, received a 23-percent increase. Agriculture received a 14.5-percent increase. Defense, the lowest one, received a 4.1-percent increase. All of these are well above the inflation rate.

What I am saying is, this is unsustainable. Every witness we have had at the Budget Committee hearing, Democrats and Republicans, Brookings and Heritage Foundation, all of them are saying: This is an unsustainable course. It has the potential to threaten our economy and our political future. One of the witnesses recently said: When you run up debts, such as we are doing today, and you get to the very top of the amount of debt this Nation can carry—and we are heading to that

direction—bad things can happen quickly, unanticipated. You have a serious collapse in Greece. The New York Times today reports real instability with regard to the Brits and their debt. If you think Greece has an impact on our economy because of their reckless spending, the British economy is far larger and would have an even greater impact. We are not far behind. In fact, in some ways we are ahead of the Brits in the amount of money we are spending and the amount of debt we are accumulating. We are threatening our economy, if we don't watch it, in a way that we can't anticipate.

There were some private prognosticators who predicted the dramatic events of 2007 and 2008, when we had the Wall Street collapse and the financial collapse. Some people saw the balloon that was rising and predicted bad things would happen. But none of our leaders did. Mr. Bernanke is supposed to be so great and they brag about him. If he is so smart, where was he when all that happened? Our people are suffering today because of bad decisions.

I have a simple view. That is, nothing comes from nothing, and nothing ever could. Everything you take today, somebody has paid for and bought. If you don't have the money today and you grasp something of value, somebody is paying for it. In our case, we are borrowing the money.

We can do better. We did better in the 1990s. We are not going to be able to slash spending in record amounts, but in some of our accounts, we absolutely could eliminate spending. Some of the government programs have been independently evaluated as being not worth the money we are spending on them. They should be ended. We should not be spending money on a program that doesn't produce a return worthy of the investment we are putting into it. Even if we call it a jobs bill, if we are going to help people have jobs, if it doesn't produce jobs, how can we spend money on it? We need to be more vigorous in analyzing it.

Please look at this amendment. A few more votes and we could have a bipartisan statement that we are going to stick by the budget we passed, the budget President Obama submitted. If the President comes in and helps us and we battle for it, maybe we can spend less than even this legislation would control. We could even reduce spending in certain accounts. I hope that is possible.

This isn't the final word, but it would send a message to the world, to Wall Street, and to our constituents that we hear their concerns. We are going to take firm steps. We are not going to be waltzing in here every week or two with some other bill that is not paid for and treating it as an emergency and increasing our debt.

I see Senator BUNNING. A lot of people didn't understand what it was he objected to with regard to the bill containing unemployment insurance. The legislation that came up essentially declared that this was an emergency, that we are going to spend another $10 billion on top of the budget amounts, and the budget would not apply to it. Every bit of that would have to be financed by borrowing on the world market. Senator BUNNING said: I am willing to support an unemployment insurance extension, but I wish to start paying for it for a change and end this cycle of increasing debt and the ease by which we go about it.

We are in a big battle right now. Let me say a bipartisan word about my legislation. Because there is so much intensity this year about our spending, Senator MCCASKILL and I have altered the legislation from the one we voted on a few weeks ago that got 56 votes, 17 Democrats voting for it. We have altered it so it begins next year. So we will have this fight this year and each bill will have its own battle. We will have our own votes over it, but it only applies to next year. I think that is a good-faith way to reach-out to our colleagues and say: Let's at least do that. Let's at least take the caps that we put in place as part of our budget, as part of President Obama's budget, and let's put them into effect. We will start it next year.

If we go above that and somebody has an idea of going above it, it won't be so easy. It will take a two-thirds vote to do so. So if you don't believe we ought to make it tougher to bust the budget, don't vote for it. But if you believe, as I think most constituents believe, we are showing too little fiscal discipline, then you should vote for it. It would give us a proven ability to contain spending and get us beginning on the right track.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENTS NOS. 3360 AND 3361 TO AMENDMENT NO. 3336

(Purpose: To offset the cost of the bill)

(Purpose: To provide additional offsets)

Mr. BUNNING. Mr. President, I ask unanimous consent that the pending amendments be set aside so I can call up my two amendments which are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. BUNNING] proposes amendments numbered 3360 and 3361 to amendment No. 3336 en bloc.

Mr. BUNNING. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendments are printed in today's RECORD under ''Text of Amendments.'')

Mr. BUNNING. Mr. President, anyone who has paid attention to the floor of the Senate for the last week knows what my amendments are about. I am offering Senators two ways to pay for this spending bill.

First of all, I would like to submit for the RECORD the CBO scoring of this current bill that is before us—both the scoring and the offsets. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CBO Estimate of the Statutory Pay-As-You-Go Effects for the the American Workers, State, and Business Relief Act of 2010
Senate Amendment 3336, as introduced by Senator Baucus as a substitute for H.R. 4213
(based on legislative language MAT10192, March 1, 2010)

(Millions of dollars, by fiscal year) REVISED 1:00 pm, March 2, 2010

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010 - 2015	2010 - 2020
Net Impact on the On-Budget Deficit													
Total On-Budget Changes	56,532	75,524	-5,124	-4,993	-8,230	-4,877	-1,028	-671	-18	402	219	108,833	107,736
Less:													
Current-Policy Adjustment for Medicare Payments to Physicians 1/	5,750	1,560	0	0	0	0	0	0	0	0	0	7,310	7,310
Designated as Emergency Requirements 2/	36,369	66,022	576	756	443	219	169	-1	-6	0	0	104,385	104,547
Statutory Pay-As-You-Go Impact	**14,412**	**7,942**	**-5,700**	**-5,749**	**-8,673**	**-5,096**	**-1,197**	**-670**	**-12**	**402**	**219**	**-2,863**	**-4,121**

Sources: Congressional Budget Office and Joint Committee on Taxation.

Notes: Positive numbers for "Net Impact on the Deficit" denote an increase in the deficit; negative numbers denote a decrease in the deficit.

Components may not sum to totals because of rounding.

These estimates are relative to current law; some of the estimates will change if any short-term "extension" legislation is enacted first.

1. Section 7(c) of the Statutory Pay-As-You-Go Act of 2010 provides for current-policy adjustments related to Medicare payments to physicians.

2. Section 701 of the American Workers, State, and Business Relief Act of 2010 would designate sections 201, 211, and 232 of the bill as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

Budgetary Effects of the American Workers, State, and Business Relief Act of 2010
Senate Amendment 3336, as introduced by Senator Baucus as a substitute for H.R. 4213
(Millions of dollars, by fiscal year)

REVISED 1:00 pm, March 2, 2010
(For March 1 legislative language: MAT10192)

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010-2014	2010-2015	2010-2019	2010-2020
CHANGES IN REVENUES															
Title I—Extension of Expiring Provisions	-8,088	-13,029	-1,984	-1,040	-768	-441	-13	76	-182	-153	-108	-24,909	-25,350	-25,622	-25,730
Title II—Unemployment Insurance, Health, and Other Provisions	-5,034	-4,758	-1,242	-661	-443	-219	-169	1	6	0	0	-12,139	-12,358	-12,520	-12,520
Title III—Pension Funding Relief	60	405	832	853	597	447	347	137	-368	-831	-688	2,747	3,194	2,479	1,791
On-budget revenues	*60*	*345*	*688*	*693*	*483*	*366*	*286*	*120*	*-265*	*-617*	*-510*	*2,269*	*2,635*	*2,160*	*1,649*
Off-budget revenues	*0*	*60*	*144*	*160*	*114*	*81*	*61*	*17*	*-103*	*-214*	*-178*	*478*	*559*	*319*	*142*
Title IV—Offset Provisions	74	7,196	7,020	5,976	3,581	2,075	1,002	582	597	613	630	23,847	25,922	28,716	29,346
Title V—Satellite Television Extension	24	108	113	117	119	93	14	14	14	14	14	481	574	630	644
TOTAL CHANGES IN REVENUES 1/	**-12,964**	**-10,078**	**4,739**	**5,245**	**3,086**	**1,955**	**1,181**	**810**	**67**	**-357**	**-152**	**-9,973**	**-8,018**	**-6,317**	**-6,469**
On-budget revenues	*-12,964*	*-10,138*	*4,595*	*5,085*	*2,972*	*1,874*	*1,120*	*793*	*170*	*-143*	*26*	*-10,451*	*-8,577*	*-6,636*	*-6,610*
Off-budget revenues	*0*	*60*	*144*	*160*	*114*	*81*	*61*	*17*	*-103*	*-214*	*-178*	*478*	*559*	*319*	*142*
CHANGES IN DIRECT SPENDING (OUTLAYS)															
Title I—Extension of Expiring Provisions	3,214	1,360	0	0	0	0	0	0	0	0	0	4,574	4,574	4,574	4,574
Title II—Unemployment Insurance, Health, and Other Provisions															
Subtitle A—Unemployment Insurance	30,925	34,940	0	0	0	0	0	0	0	0	0	65,865	65,865	65,865	65,865
Subtitle B—Health Provisions	1,870	27,080	-550	150	110	90	80	80	70	70	70	28,660	28,750	29,050	29,120
Subtitle C—Other Provisions	1,808	430	67	24	1	0	0	0	0	0	0	2,330	2,330	2,330	2,330
Subtotal, Title II	34,603	62,450	-483	174	111	90	80	80	70	70	70	96,855	96,945	97,245	97,315
Title III—Pension Funding Relief	0	0	-60	-120	-180	-240	-120	-90	-30	90	150	-360	-600	-750	-600
Title IV—Offset Provisions	0	0	0	0	-5,260	-2,960	0	0	0	0	0	-5,260	-8,220	-8,220	-8,220
Title V—Satellite Television Extension	1	16	14	38	71	107	132	132	112	99	25	140	247	722	747
Title VI—Other Provisions—Medicare Payments to Physicians	5,750	1,560	0	0	0	0	0	0	0	0	0	7,310	7,310	7,310	7,310
TOTAL CHANGES IN OUTLAYS	**43,568**	**65,386**	**-529**	**92**	**-5,258**	**-3,003**	**92**	**122**	**152**	**259**	**245**	**103,259**	**100,256**	**100,881**	**101,126**
NET CHANGE IN DEFICITS FROM REVENUES AND DIRECT SPENDING															
NET CHANGES IN DEFICITS 2,3/	**56,532**	**75,464**	**-5,268**	**-5,153**	**-8,344**	**-4,958**	**-1,089**	**-688**	**85**	**616**	**397**	**113,232**	**108,274**	**107,198**	**107,595**
On-budget deficit change	*56,532*	*75,524*	*-5,124*	*-4,993*	*-8,230*	*-4,877*	*-1,028*	*-671*	*-18*	*402*	*219*	*113,710*	*108,833*	*107,517*	*107,736*
Off-budget deficit change	*0*	*-60*	*-144*	*-160*	*-114*	*-81*	*-61*	*-17*	*103*	*214*	*178*	*-478*	*-559*	*-319*	*-142*

Sources: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Notes:

Components may not sum to totals because of rounding.

1. Negative numbers denote a DECREASE in federal revenues; positive numbers denote an increase in revenues.

2. Positive numbers denote an INCREASE in the budget deficit; negative numbers denote a decrease in the deficit.

3. These estimates are relative to current law; some of the estimates will change if any short-term "extension" legislation is enacted first.

Mr. BUNNING. The first amendment is to use unspent stimulus funds and the second is by shutting down unnecessary or duplicate Federal programs. In other words, I am saying we should use money we have already set aside that has not been spent or eliminate wasteful spending to pay for the benefits that are in this current bill.

Over the last few days, many Senators on the other side of the aisle have come to the floor and said unemployment benefits are the best form of stimulus available. They say the families who are getting those benefits turn around and spend the money immediately. Well, if that is true, I cannot think of a better use of the money from last year's so-called stimulus bill. Why leave that money sitting around unused in a government account somewhere when those funds could get into the hands of people who need them the most and will put them into the economy right away? What is so sacred about the stimulus bill that we should keep that money sitting around until it can be spent later this year or next year or even in 2012 and beyond? Why not help the people now?

But for the Senators who think the stimulus money is so sacred that it cannot be touched, I am proposing another way to pay for this bill. Senator COBURN, my colleague from Oklahoma, has identified well more than $120 billion worth of savings from waste, fraud, and abuse. These savings include closing the Federal employee tax gap; that is, making sure all Federal employees pay all the taxes they owe, and stopping the payment of benefits to people and companies that are not entitled to those benefits.

The amendment would also be paid for by ending Federal programs that are no longer needed or duplicates of other government programs and making existing programs run more efficiently. I think the President's budget itself has hit on many of those programs he would like to see eliminated or partially eliminated. I think it is safe to call that wasteful spending, and I think the taxpayers who are footing the bill for those programs would agree.

Families all across America have to tighten their budgets when times get tough, and government should do the same. That is all I am trying to do with these two amendments.

I am sure some will accuse me of being against the programs in this bill. But the record should be clear by now that I support helping people in their time of need. In fact, every Member of the Senate who was able to make the votes last night supported extension of those benefits, either in my pay-for version or in the version that added to the debt. My amendments are not about whether we should extend these programs. No. My amendments are about whether we should pay for extending these programs or whether we should keep piling more debt on top of the $14 trillion-plus debt we have already. I think the answer is very clear.

Last night, I thought we had a deal worked out to give me an up-or-down vote on my amendment to pay for the short-term extender bill. Instead, one Senator raised a budget point of order against the amendment, and I expect someone will try to do the same thing today with my amendments. That was her right as a Senator, but it is certainly not within the spirit of the agreement I tried to reach to find a way forward on these important programs.

But I think the larger question raised by that move is, What are the 53 Senators who voted to block my amendment afraid of? Are they afraid the Senate might pay for something we do? Are they afraid we might take a step toward balancing the Federal budget? Are they afraid we will bring Washington spending, which is out of control, just a little bit under control and live under the same rules as ordinary American families?

Is it too much to ask that we pay for what we spend? Last night, 53 Senators said yes, it is too much to ask for. But I think it is not. Today, every Senator will have an opportunity to join me in saying it is not too much to ask or they can vote against my amendments and add another $100 billion-plus to the national debt. That is the emergency spending in this present bill—over $100 billion. So that goes onto the bottom line of the Federal debt.

I urge every Senator to vote for my amendments to pay for this spending, to put away the taxpayers' credit card, and to put an end to the debt madness. I have examples of those spending rescissions.

As an example, there is $245 million from congressional office budgets, to end some of the perks congressional leadership and congressional offices have; to end the Forest Service Economic Action Program, $5 million. I think the President put this in his budget. The program duplicates an existing USDA program—Urban and Community Forestry—that has been poorly managed.

Another is to end the Public Telecommunications Facilities Grant Program, $18 million. I am positive this was in the President's budget. This program is intended to help public broadcasting stations construct telecom facilities. Since the transition to digital broadcasting has been completed, there is no more need for this program.

On down the line—end HUD's Brownfields Economic Development Initiative, $17 million; reduce the historic preservation services within the Interior Department by $55 million. This is a grant program duplicated by other programs at the Interior Department.

This is one I am very familiar with because when I was in the House, we thought this was a necessary program to put our economic footing on foreign soil, the same as other foreign-based companies did when they came to America. End the Overseas Private Investment Corporation, $52 million. The Overseas Private Investment Corporation loans private U.S. companies funding for foreign investments and insurance. The U.S. Trade and Development Agency does the very same thing.

Another is to eliminate $28 million in the Department of Transportation that has been directed at transportation museums—museums. I do not think we should be building new museums with Department of Transportation funds. I think we should be building roads.

Those are just a few examples of some of the rescissions I would like to see in the second amendment I have offered today. I think there will be ample time to discuss these later on, but I wanted to make sure we offered these amendments early on so we could have a good and thorough debate on these programs as this bill proceeds through the Senate.

I thank the Presiding Officer and yield the floor.

AMENDMENT NO. 3356

Mrs. MURRAY. Mr. President, I rise this morning because I am offering an amendment on youth summer jobs that will build on and extend the extremely successful summer jobs program we included in last year's Recovery Act. Last summer's program put over 313,000 young people to work and provided a much needed shot in the arm to them, their families, and businesses and communities around the country. I have personally heard stories from young men and women who participated in the program who told me how much it changed their lives and gave them the skills and the experience they know they need to exceed in school and in the workforce. That is why, while we are focusing on legislation that will support unemployed Americans and help workers get back on the job, we should also continue investing in a successful program that helps our young people get to work.

The amendment I am offering today will provide $1.5 billion through the Workforce Investment Act to create 500,000 temporary jobs for young people across the country. It will invest in critically needed employment and learning programs that will help stimulate our local economies while providing meaningful short-term work and learning experiences for the young people who really need it the most.

In addition to the summer jobs program, this amendment also supports year-round employment and longer term efforts to help our young people obtain a postsecondary degree or credential.

Growing up, I had every different kind of summer job you can ever imagine. I started out working in my father's five-and-ten-cent store on Main Street in Bothell, and, along with my brothers and sisters, I did everything from stocking the shelves, to working the cash register, to sweeping the floor. Later on, I worked at a summer job at Sacajawea State Park in Pasco, where

I did weeding, kept the restrooms clean, and helped make the park presentable. One summer, I answered phones at a glass company in my hometown of Bothell. I also, one summer, worked at a psychiatric ward at the VA during a summer in college.

Looking back, I can tell that each one of those jobs I held as a young person helped me in a very unique way. Each one of them taught me skills and lessons I have been able to use throughout my life. Those jobs taught me everything from the value of hard work to the daily challenges of running a small business, how to dress and act in a professional work setting, but, most of all, those jobs helped me be exposed to new experiences and new people and new challenges. In fact, my time working at the Seattle VA that summer gave me an appreciation of our veterans and health care workers that has driven me to fight for them every single day I am in the Senate now.

It is not just me. Summer jobs have been proven to teach skills and life lessons for everyone. Studies have shown that people who get early work experience as teenagers make more money as adults. In fact, early work experience has been shown to raise earnings 10 to 20 percent over a lifetime.

However, as we all know, today teens are finding it especially difficult to find a job. Over the past 2 years, the number of employed teens in the United States has declined by nearly 25 percent, and their overall employment rate fell to a new post-World War II low of 25 percent by the end of last year, more than 18 percentage points below the rate in 2000. In fact, the total proportion of young people who were employed last July, the traditional peak time for youth jobs, was only 51.4 percent. That is the lowest July rate on record.

Today, with families who are cutting their spending so they can pay their bills and businesses having to freeze hirings so they can pay theirs, that means even fewer jobs for young people today.

I don't think we should forget teen jobs will help stimulate our local economies because, as anybody who has had a teenager at home knows, young people are a lot more likely to spend their paychecks in their communities than pocket them. When a young person does, in fact, save their wages, oftentimes they are saving for college or making a critical contribution to their families in this very difficult time.

Sometimes I hear people talk about these big national programs and too often forget there are real people being impacted, real families being helped, and real young people being offered such an important helping hand. I wished to share with everyone a story about what this funding meant for a program in King County, WA, last year for a young man who had the opportunity to participate because of the funding we provided last year.

Back in 2007, King County was able to provide 200 local youth jobs for that year. They were able to provide about the same number—200 or so—in 2008. Then, last summer, with the funding we secured for them in the Recovery Act and under the leadership of a great CEO, Marlena Sessions, they were able to provide 900 young people with summer work experience. Nine hundred young people in King County last summer had the opportunity to productively engage in their community and avoid that high risk in criminal activity we worry about and, importantly, learn the 21st century skills employers value, such as critical thinking and teamwork and problem solving and communication.

One of those participants in King County was a young man named Ryan. He spent his summer last year working at a maritime supply company in Seattle, a company called Washington Chain. Ryan had gotten into a lot of trouble in his life in the past. He was actually on work release from prison. He didn't have many of the skills employers are looking for in employees, so he went out and applied for job after job, fast food restaurants and more of the same. He actually put out 200 applications in total without a single one willing to take a chance on him after they found out about his record.

Well, Ryan heard about the Seattle King County Summer Jobs program, and you know what. It changed his life. Ryan was accepted into a program that was a partnership between a youth service provider and a community college. He spent 3 weeks in class, followed by 3 weeks in a paid internship at Washington Chain. The company wasn't planning on hiring any new full-time employees, but at the end of last summer, this experience changed Ryan so much and they were so impressed with Ryan and his work capability that the company found a full-time job for him. It was a real job for Ryan, with a decent salary and good benefits and a future. For the first time in his life, Ryan was able to take pride in his work and finally support himself and his young children.

After the program was over, Ryan said the program was ''one of the best things that ever happened to me.'' His boss at Washington Chain said the company was lucky to find Ryan. He said Ryan had been ''willing to do just about everything we have asked him.''

The summer jobs program we passed last year gave Ryan and many more like him an opportunity they would not otherwise have had. It is a new lease on life for him, and doors opened to him that had always been closed to him. Ryan is far from alone. There are hundreds of thousands of young people around the country whose lives were changed by the experiences they had last summer.

So if this amendment I am offering today passes, there will be 500,000 more by this time next year. Five hundred thousand young people will be providing much needed services in hospitals and daycare centers, in senior centers, in parks, in public and in private organizations, staying off the streets, helping their communities, gaining the skills and the experiences they need to put them on a better path to success in school and life. Yes, by the way, they will be spending those paychecks and contributing to our economic recovery.

I urge our colleagues to support this amendment. The underlying bill we are considering today is going to help millions of families across the country who need some help right now getting back on their feet. This amendment will help young people across this country start their professional lives by firmly planting them on moving toward a successful, productive, and fulfilling career. I hope all our colleagues take the time to think back and think about what happened to them and people they know in their lives, where they had a summer job experience that helped set them on a path they may have never thought available to them and that it is our responsibility, in this Chamber, to now provide that same opportunity for young people who are following in our footsteps.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, first, I wish to thank Senator THUNE. He gave me permission to speak before him. I will be brief in my strong support for the Murray amendment to provide $1.5 billion for youth jobs programs through the Workforce Investment Act for summer and year-round employment.

This amendment will help create up to 500,000 temporary jobs for young people.

We know the youth jobs program works. Funds included in the Recovery Act for youth jobs provided over 300,000 young adults with employment opportunities last summer, stimulating local economies all across the country. Young adults who work not only help supplement family incomes, they also spend the money they earn in their communities. According to the Northeastern University Center for Labor Market Studies, every dollar earned by a young adult returns $3 to the local economy.

Youth jobs programs also help disadvantaged young adults become active members of their communities.

The many local workforce investment groups in my State of California not only provide disadvantaged young adults with short-term employment, they also offer job training and mentoring programs, help them advance their careers with educational opportunities, and teach critical life skills.

We also know right now there are not enough work opportunities for teens and young adults. The unemployment rate for 16- to 19-year-olds is above 25 percent. For 16 to 19-year-old African Americans, the unemployment rate is

nearly 50 percent. Youth jobs programs help keep our kids off the streets, which is important to all our communities.

I wish to highlight one of the many Recovery Act youth jobs success stories in California. The Placer Herald reported that last summer the Golden Sierra Investment Board worked with 23 disadvantaged teens in Rocklin, CA, to construct a permanent storage facility at a local high school. The participants helped design the facility using computer design technologies. They built the mainframe, painted and drywalled and installed solar lighting. Without Recovery Act youth job funds, this program wouldn't have been possible.

I ask unanimous consent to have printed in the RECORD the article from the Rocklin, CA, Placer Herald. It is a wonderful story about the high school students taking on this building project.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Placer Herald, July 30, 2009]

HIGH SCHOOL STUDENTS TAKE ON BUILDING PROJECT

(By Lauren Weber)

With a little strength, time and sweat, a group of youth from Rocklin have created a permanent structure for Whitney High School.

It took more than 200 hours of service, but 23 teens built a 24-by-48-foot storage center to house the ground's equipment for the school. The hands-on project had the students framing the structure, installing solar lighting, putting up dry walls and painting the exterior green.

''They really did this from the ground up,'' said Sherry Mauser, Whitney High School assistant principal.

Mauser oversaw the process and was instrumental in getting the $25,000 grant that funded the project. She contacted Golden Sierra, an employment and training service for people in Placer, Alpine and El Dorado counties and a partnership was formed.

Sharon Williams, a summer youth coordinator for Golden Sierra, said President Barack Obama's stimulus project gave money for summer programs.

''They encouraged the agencies to get bids on either in-school projects or some of our projects are out-of-school projects,'' Williams said.

The grant went toward the purchase of materials, safety equipment like hard hats and salaries for the adults on-site, Mauser said. The district also contributed some money from their facilities fund for the construction of a larger building.

The teens are paid as well and for many it was their first job.

''It's been a real learning project for these kids,'' Williams said.

Williams was on-site to also oversee that child labor laws were upheld, such as no one under 18-years-old on the ladder.

Many of the students, both from Rocklin and Whitney high schools, had never taken on construction jobs before. But with a little assistance from experts, they became knowledgable in Computer-Aided Design drawings, how to put up dry wall and build the frame.

Kyle Balance, 19, and a recent Whitney High School grad, said his favorite aspect of the project was the framing and said he was impressed with how quickly it went up.

Rocklin High School junior Alessio Alba said he enjoyed the more computer-related aspect.

''I liked using the CAD system,'' he said.

The group came up with computer drawings, which paved the way for the beginning of the project in June.

From start to finish, the students were deeply involved, Mauser said.

''Everybody worked as a team on this one,'' she said.

Last week, the students were in the last stages, finishing up the drywall and getting ready to paint the interior. Whitney High School student Mike Mello said although he'd never been part of a construction project, it is something he has enjoyed.

''This is fun,'' he said. ''I like working with my hands, being out in the field.''

Rocklin High School student John Wong has a four-mile commute on his bike to get to the project site everyday, but has been dedicated, Mauser said.

His father owns a door company, so he's been around construction before and may pursue a career in the construction field, he said. This hands-on opportunity may have aided his future career.

Construction of the space was complete Wednesday and the students will be recognized at the Rocklin Unified School District school board meeting Aug. 5.

Mrs. BOXER. So this amendment is very important. As our economy continues to recover, we all know jobs are lagging. We need to do all we can to try to replicate what happened in Rocklin, CA.

When you give a young person opportunity, a job opportunity, I think it stays with them the rest of their life. I remember the jobs I held when I was a teenager. One gave me a sense of self that I could help the company I was working for. I did many different jobs as a youngster in the summer. I was very fortunate to have that experience that I brought to other jobs later in my career.

So this amendment will create up to 500,000 summer jobs. It will strengthen local economies.

I do thank Senator MURRAY and the other cosponsors in the Senate. In closing, I wish to acknowledge Congresswoman BARBARA LEE and the Congressional Black Caucus, who are leading the fight in the House to support critical youth job programs for our disadvantaged young people. When I talked to Congresswoman LEE, she said: BARBARA, can you do something in the Senate. I remembered Senator MURRAY had this bill, and I called Senator MURRAY. We have this amendment here. I think the fact that it has been offered early in this bill is good because this is something we can do for our young people. They want so much to get job experience. They are struggling so much in this recession.

I wish to congratulate Senator MURRAY and the other cosponsors. I hope we have strong bipartisan support for this amendment.

Again, I thank Senator THUNE for allowing me to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 3338, AS MODIFIED

Mr. THUNE. Mr. President, I have an amendment I introduced yesterday at the desk and I have some modifications to it which are also at the desk. I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the end, insert the following:

TITLE ——ADDITIONAL BUSINESS TAX RELIEF

Subtitle A—General Provisions

SEC. —01. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) PERMANENT INCREASE.—Subsection (b) of section 179 is amended—

(1) by striking ''$25,000'' and all that follows in paragraph (1) and inserting ''$500,000.'',

(2) by striking ''$200,000'' and all that follows in paragraph (2) and inserting ''$2,000,000'',

(3) by striking ''after 2007 and before 2011, the $120,000 and $500,000'' in paragraph (5)(A) and inserting ''after 2009, the $500,000 and the $2,000,000'',

(4) by striking ''2006'' in paragraph (5)(A)(ii) and inserting ''2008'', and

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking ''and before 2011''.

(c) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2008.

SEC. —02. EXTENSION OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k), as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended—

(1) by striking ''January 1, 2011'' in subparagraph (A)(iv) and inserting ''January 1, 2012'', and

(2) by striking ''January 1, 2010'' each place it appears and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended by striking ''JANUARY 1, 2010'' and inserting ''JANUARY 1, 2011''.

(2) The heading for clause (ii) of section 168(k)(2)(B), as so amended, is amended by striking ''PRE-JANUARY 1, 2010'' and inserting ''PRE-JANUARY 1, 2011''.

(3) Subparagraph (D) of section 168(k)(4) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

''(iv) 'January 1, 2011' shall be substituted for 'January 1, 2012' in subparagraph (A)(iv) thereof, and

''(v) 'January 1, 2010' shall be substituted for 'January 1, 2011' each place it appears in subparagraph (A) thereof.''.

(4) Subparagraph (B) of section 168(l)(5), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(5) Subparagraph (C) of section 168(n)(2), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(6) Subparagraph (D) of section 1400L(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(7) Subparagraph (B) of section 1400N(d)(3), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. —03. INCREASED EXCLUSION AND OTHER MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended to read as follows:

''(a) EXCLUSION.—

''(1) IN GENERAL.—In the case of a taxpayer other than a corporation, gross income shall not include the applicable percentage of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent, in the case of stock issued after August 10, 1993, and on or before February 18, 2009,

''(B) 75 percent, in the case of stock issued after February 18, 2009, and on or before the date of the enactment of the American Workers, State, and Business Relief Act of 2010, and

''(C) 100 percent, in the case of stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.

''(3) EMPOWERMENT ZONE BUSINESSES.—

''(A) IN GENERAL.—In the case of qualified small business stock acquired after December 21, 2000, and on or before February 18, 2009, in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer's holding period for such stock, paragraph (2)(A) shall be applied by substituting '60 percent' for '50 percent'.

''(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

''(C) GAIN AFTER 2014 NOT QUALIFIED.—Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

''(D) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1202 is amended by striking ''**PARTIAL**''.

(B) The item relating to section 1202 in the table of sections for part I of subchapter P of chapter 1 is amended by striking ''Partial exclusion'' and inserting ''Exclusion''.

(C) Section 1223(13) is amended by striking ''1202(a)(2),''.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—Paragraph (7) of section 57(a) is amended by adding at the end the following: ''The preceding sentence shall not apply to stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.''.

(c) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking ''$10,000,000'' and inserting ''$15,000,000''.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking ''paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000'' and inserting ''the amount under paragraph (1)(A) shall be half of the amount otherwise in effect''.

(d) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking ''$50,000,000'' each place it appears and inserting ''$75,000,000''.

(e) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2010, the $15,000,000 amount in subsection (b)(1)(A), the $75,000,000 amount in subsection (d)(1)(A), and the $75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $1,000,000 such amount shall be rounded to the next lowest multiple of $1,000,000.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (c) and (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. —04. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

''(A) 9 percent of the lesser of—

''(i) the qualified production activities income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year, and

''(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

''(i) the eligible small business income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year.''.

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

''(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

''(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term 'eligible small business' means, with respect to any taxable year—

''(A) a corporation the stock of which is not publicly traded, or

''(B) a partnership,

which meets the gross receipts test of section 448(c) (determined by substituting '$50,000,000' for '$5,000,000' each place it appears in such section) for the taxable year (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).

''(2) ELIGIBLE SMALL BUSINESS INCOME.—

''(A) IN GENERAL.—For purposes of this section, the term 'eligible small business income' means the excess of—

''(i) the income of the eligible small business which—

''(I) is attributable to the actual conduct of a trade or business,

''(II) is income from sources within the United States (within the meaning of section 861), and

''(III) is not passive income (as defined in section 904(d)(2)(B)), over

''(ii) the sum of—

''(I) the cost of goods sold that are allocable to such income, and

''(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

''(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

''(i) Any income which is attributable to any property described in section 1400N(p)(3).

''(ii) Any income which is attributable to the ownership or management of any professional sports team.

''(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

''(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

''(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. —05. NONAPPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT.

(a) TAX-FAVORED BONDS.—Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 is hereby repealed.

(b) STIMULUS PROJECTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, subchapter IV of chapter 31 of title 40, United States Code, shall not apply to any project funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009.

(2) CONFORMING AMENDMENT.—Section 1606 of division A of the American Recovery and Reinvestment Act of 2009 is hereby repealed.

(3) EFFECTIVE DATE.—This subsection shall apply to contracts entered into after the date of the enactment of this Act.

Subtitle B—Transfer of Stimulus Funds

SEC. —11. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111–5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues and the amount of any net increase in spending resulting from the enactment of this Act.

Mr. THUNE. Mr. President, I also ask unanimous consent that Senators BENNETT and ROBERTS be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THUNE. Mr. President, yesterday, one of my colleagues criticized me for trying to redirect unspent stimulus funding to pay for tax relief for small businesses by citing all the jobs the stimulus bill supposedly created. I, as many people do, have my doubts about some of these estimates, but I can guarantee this much: none of these jobs have been created or saved by the unspent funds.

There is a lot of money in the stimulus bill that has yet to be spent, according to recovery.org, which is the

administration's Web site. About 38 percent of the stimulus money approved last year out of that $1 trillion amount—round numbers—has been spent. So there is a lot of unspent and unobligated money.

Frankly, many of us, at the time it passed last year, suggested it would be a much wiser use of those funds if we directed those toward small businesses. Small businesses are the creators of jobs in our economy. They create two-thirds of the jobs. They are the economic engine that drives the economy in this country. Ironically, less than 1 percent of that $1 trillion that was approved last year in stimulus funding was directed at incentives for small businesses to create jobs. We put money into all kinds of other things which, to date, have shown little evidence that any jobs have been created. It seems to me, at least, and the argument that was made at the time by many of us, was that allowing or creating more of these incentives, putting more policies in place that would incentivize small businesses to create jobs would have been a much better use of stimulus money.

What my amendment very simply says is, of those unspent, unobligated funds—and that universe of funds represents about $160 billion that has not only not been spent but not obligated—we use some of those funds to do what we should have done in the first place; that is, to create incentives for small businesses to hire new people, to put people back to work, and to make capital investments.

I take issue with what was said on the floor yesterday, that somehow my amendment was going to cut the Economic Recovery Act short. It doesn't do that at all. In fact, what this does is simply say those funds that have not been spent, not been obligated in the stimulus bill that was passed last year, be redirected toward these particular provisions that will provide incentives for small businesses to create jobs. Very simply, what are those? It extends by 1 year the bonus depreciation that allows small businesses to accelerate the way they write off equipment purchases; accelerated depreciation schedules so they can take more of that cost upfront as a deduction.

It also makes permanent the section 179 deduction and increases that as well so that small businesses are able to expense more of those types of investments—again, an incentive for them to invest more, hopefully to create jobs.

It eliminates the capital gains tax on investment in small businesses. By the way, that is something the President, in his State of the Union speech, came out in support of. So this is something the White House has already endorsed.

Finally, it provides for a 20-percent deduction for small businesses against their income. Why is that necessary? Many small businesses, and, in fact, half of small business income, we are told, when tax rates go up next year would be subject to that higher tax. If a small business that passes through their income to their individual tax return is currently paying at the 33-percent tax rate, they are going to see that tax rate go up to 36 percent of that income. If they are currently paying at the 35-percent tax rate, they are going to see their tax rate go up to 39.6 percent starting next year, in 2011. This allows them to take a 20-percent deduction against their income that will help in some ways limit or mitigate the impact of the higher tax rates that they will be subject to beginning in 2011.

Again, I think it is a fairly straightforward amendment, and I simply argue, again, to my colleagues that it makes sense for us, in my view, to be making investments, be putting policies in place that will incentivize job creation in this country, and that job creation, again, occurs in the private economy with small businesses.

Small businesses, we are told, create two-thirds of the jobs in our economy and, in fact, about half of the people in this country who work, who are employed currently, work for small businesses. They have a tremendous impact on our economic well-being, on job creation.

It is important, in my view, that we take steps here that will add to the ability of our small businesses to get out there and do what they do best; that is, make investments and create jobs.

I take issue with what was said yesterday about this amendment: that it would cut short the Economic Recovery Act. It does not do that at all. These are not funds that have currently been spent or obligated. These are funds that are unspent, unobligated out of the $1 trillion bill passed last year which, as we all know, to date has not created the jobs promised. In fact, since the bill passed last year, we have lost 2.7 million jobs in our economy.

I think, frankly, one of the reasons for that is it was misdirected in the first place. We should have been focused on job No. 1, and that is helping those job creators in our economy, which are small businesses.

I want to point out that the National Federation of Independent Business, which is the largest trade organization representing small businesses in this country, at least the largest small business advocacy organization, has written a letter in support of my amendment. I want to read one paragraph from that letter. It says:

> The Thune amendment is a necessary step in helping to provide more certainty to small businesses about their future tax liability, whether to make long term capital expenditures, and hire more workers. We hope this amendment will provide momentum to clear other obstacles in the path to job creation.

I guess what I would say by way of closing is that although there is a great debate here about how best to create jobs, I think we can all agree a lot of the $1 trillion stimulus bill that passed last year has not been spent. The argument that it would be timely, targeted, and temporary, I think all of those criteria have not been met. More important, the ultimate metric by which I think we judge whether it has been a success or not has not been met either, and that is job creation.

Look at the economy today. Unemployment stands at 9.7 percent. The commitment made when the bill was passed a year ago was that if we pass this stimulus bill, we will hold unemployment below 8 percent. We know it is well past that.

If you look again at the job numbers and the number of people in this country still looking for work, still struggling, still struggling with the loss of income, the best thing we can do is get them back to work, and the best way to do that is not to create jobs in Washington, DC, or invest in government programs; it is, frankly, to get the small businesses in our economy, the creators of jobs, the engine that drives this economy forward, liberated in a way, providing certainty with regard to tax policy so they know that in 2011, when their tax rates go up—at least those who pass their income through their individual tax return—they are going to have some relief, allowing some relief with regard to capital gains taxes by exempting small business investment, allowing for bonus depreciation so they can write off business purchases, and increasing section 179 expensing, that deduction that currently exists in the Tax Code making that permanent.

Those are all steps, small steps, but at least important steps, in my view, that will move this economy forward and do what I think many of us want to see done; that is, create the conditions and the economic climate where jobs can be created where we get people back to work.

We are going to have a vote on this amendment this afternoon. Again, my colleagues who were debating an underlying bill that has tax extenders, COBRA extension, unemployment benefits extension—all of those sorts of things, all of which I understand are important, particularly right now when we have a lot of people who are out of work. But, again, the best remedy we can offer to the American people is to create jobs and get people back to work. That will make it less necessary for us to act on the legislation we have to act on today that addresses all the economic dislocation and hurt the American people are experiencing as a result of this economy.

A year ago when this stimulus bill passed, less than 1 percent of the money was directed toward small businesses. We can fix that today with this amendment by directing these tax incentives, using unspent, unobligated stimulus money to do it. It is all paid for. It is all offset. It does not pass debt to future generations. It does not add to the deficit. It is all paid for. It puts the money where it should have been

put in the first place and directs it in a way that will be adding to job creation in this country.

I ask my colleagues to support this amendment. I think it will be voted on in a couple of hours.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I will offer an amendment to the pending legislation, amendment No. 3342. It is my intention to call up that amendment after the votes on the pending amendments this afternoon, but I would like to take a few minutes to explain to my colleagues the nature of this amendment and why I believe it is important.

This amendment basically says if you are an executive at one of the companies that received more than $5 billion in the TARP bailout, the financial bailout that occurred when we began our economic crisis, and if you receive in addition to your compensation a bonus in excess of $400,000, then that amount above $400,000—which is the approximate compensation of our President—will be taxed at 50 percent, and the amount it is taxed will be returned to the American taxpayers for deficit reduction.

It is a very simple amendment. It is a one-time amendment based on a unique situation in this country when the American taxpayers had to bail out our major companies in order to stabilize our economy.

This is not class warfare. It is not a continuing windfall profits tax. But I believe it is very proper for us to institute this on a one-time basis. Estimates we have had, when I offered this amendment as independent legislation a short while ago, along with Senator BOXER, were that you could recoup in the neighborhood of $10 billion back into our economy by this very fair tax assessment.

I want to go back to two opinion pieces that have been written over the last couple of years from people with great standing in the financial community and great philosophical differences. Then I want to remind my colleagues the process we had to enter into when the TARP legislation was first voted on.

On July 14, 2008, Paul Krugman, a Nobel Prize-winning economist, wrote a piece in the New York Times. I came to the floor at that time and quoted from his piece. He was talking about the beginning of what became our crisis, and he made the point:

It's the belief of investors—

He was talking at this point about the situation with Fannie and Freddie, to quote from his article.

It's the belief of investors if they fail, the federal government will come to their rescue.

Then he wrote:

The implicit guarantee means that profits are privatized while losses are socialized.

What he meant by that and what we actually have seen play out as our economy, thankfully, has begun to recover is, with the situation we entered into with TARP, risk was socialized. That means the average worker in this country—the person out there driving a truck, the nurse working in a hospital, the people doing the day-to-day work—had to put their tax dollars in to stabilize these banking systems, but the reward from the stabilization has become personalized to the executives who were running these companies, who then have benefited through these large bonus systems once our economy began to stabilize.

It is my strong belief, as someone who is a supporter of people who are willing to take risks and create the right kind of environment for growth in our economy, that they should be happy once they have reached a point where they have been compensated and they have had a $400,000 bonus. They should be happy to take the money beyond that $400,000 bonus and divide it up with the average worker out here who may not even own stock who had to put their tax dollars in to stabilize the economy.

The second article I would like to quote from is from the Financial Times which, as all of my colleagues will recognize, is one of the most conservative newspapers in the world when it comes to capitalist enterprise, risk taking, rewarding the people who get out and lead in our business sector.

Martin Wolf wrote an editorial on November 19, 2009, not that long ago. I ask unanimous consent to have printed in the RECORD the entire article after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WEBB. Mr. President, Martin Wolf said this:

Windfall taxes are a ghastly idea. . . . No sensible person should support them. So why do I now find the idea of a windfall tax on banks so appealing? Well, this time, it really does look different.

Mr. Wolf goes on to point out:

Ordinary people can accept that risk takers receive huge rewards. But such rewards for those who have been rescued by the state and bear substantial responsibility for the crisis are surely intolerable. . . . The public finances will be devastated for decades: taxes will be higher and public spending lower. Meanwhile, bankers are about to reap huge rewards. This damages the legitimacy of the market economy.

Mr. Wolf went on to support the very concept I am putting on the table today; that is, a one-time windfall profits tax on moneys that were earned in 2009 when this American taxpayer rescue of our financial system occurred, when earnings that occurred through work in 2009, which are paid in 2010—this is not a retroactive tax; one shot, balance the playing field and reward the people who stepped forward to help save our economy.

Sometimes it is hard for us to remember the circumstances that took place when we were asked to vote for TARP back in September of 2008 because so much has happened to our economy and to the debate in this country since then. But we should remember that in September of 2008, Secretary Paulson and Chairman Bernanke put us all on a conference call. They told us if we did not put $700 billion of taxpayer money into a program to assist our major Federal financial institutions that the world as we knew it economically was going to fall into cataclysm. We voted in support of this $700 billion—I voted for it—in order to help these financial institutions solve the problems, undo their systems of bad assets—which had taken place, quite frankly, through a lot of bad judgment in their leadership—free up our economic system and get credit going again. And we did it with the explicit understanding that it was the American taxpayers who were putting the money in and who, when the system righted itself, would get their money back. So this one-shot deal is designed to help do that.

It is fair to all parties. It allows the executives in these 13 companies that received more than $5 billion each of taxpayer money to still reward their executives and at the same time share these profits, or these benefits that go beyond a $400,000 bonus, with the people who basically pulled their fat out of the fire.

I hope we can get a vote on this amendment. I trust my colleagues will understand the care with which it was designed and the equity we are trying to deal with.

I yield the floor.

EXHIBIT 1

[From the Financial Times, Nov. 19, 2009]

TAX THE WINDFALL BANKING BONUSES

(By Martin Wolf)

Windfall taxes are a ghastly idea. They are a sop to prejudice, a burden on risk-taking and a form of arbitrary confiscation. No sensible person should support them. So why do I now find the idea of a windfall tax on banks so appealing? Well, this time, it really does look different.

First, all the institutions making exceptional profits do so because they are beneficiaries of unlimited state insurance for themselves and their counterparties. As Andrew Haldane of the Bank of England argues, the state has ''become the last resort financier of the banks''. In the UK, total support amounted to a staggering 74 per cent of gross domestic product. These must be the largest business subsidies ever.

Second, the profits being made today are in large part the fruit of the free money provided by the central bank, an arm of the state. The state is giving the surviving banks a licence to print money.

Third, the case for generous subventions is to restore the financial system—and so the economy—to health. It is not to enrich bankers, particularly not those engaged in the sorts of trading activities that destroyed the financial system in the first place.

Fourth, ordinary people can accept that risk takers receive huge rewards. But such rewards for those who have been rescued by the state and bear substantial responsibility for the crisis are surely intolerable. What makes them yet more so is that the crisis has devastated the prospects of tens, if not hundreds, of millions of innocents all over

the globe. The public finances will be devastated for decades: taxes will be higher and public spending lower. Meanwhile, bankers are about to reap huge rewards. This damages the legitimacy of the market economy.

Fifth, it is hard to argue in favour of exceptional interventions to bail out the financial sector at times of crisis, and also against exceptional interventions to recoup costs when the crisis is past. ''Windfall'' support should be matched by windfall taxes.

Finally, these are genuine windfalls. They are, as George Soros has said, ''hidden gifts'' from the state. What the state gives, the state is entitled to take back, if it is not used for the state's purposes.

So the question, in my mind, is not whether a windfall tax can be justified but whether it can be designed successfully. All taxes have unintended consequences. One must be particularly careful with this one.

Since the aim of policy is to recapitalise the banks, the tax should not reduce their ability to do so. It would be far better then to impose a tax on contributions made to the bonus pool. There is no public interest in such payments. Since it would be a one-off event, it should not affect incentives (unless banks plan to create systemic crises every few years). If the tax applied to all banks operating within a given jurisdiction, it would not affect competitiveness among them. The case seems strong—even more so if the tax could be implemented across major jurisdictions, simultaneously.

Yet windfall taxes cannot contain financial excess, precisely because their goal is not to affect incentives. So what is to be done?

As Mr. Haldane notes, we have seen ''a progressive rise in banking risk and an accompanying widening and deepening of the state safety net''. As the liabilities of the banks have become ever more socialised and so equity cushions have become increasingly redundant, the incentive for both limited liability shareholders and employees to game the taxpayer has risen greatly. It is rational for banks to choose risky strategies because they take the upside and taxpayers much of the downside.

Over the past half century, UK bank capital has remained at between 3 per cent and 5 per cent of assets, these assets have risen tenfold, relative to GDP, and returns on equity have averaged 20 per cent. Such high returns, in an established industry, must mean either high barriers to entry or excessive risk-taking. The former are undesirable and the latter terrifying, particularly in view of the huge rise in the state's exposure to the risks.

We will never have a better opportunity than now to redress the deteriorating terms of trade between the banks and the state. A big part of the solution must be to shift incentives. The more credible are the pre-announced limits on support from government, the more effective will be the changes in incentives inside banks, and vice versa. The less we are able to shift these incentives, the more important it will be to impose heavy regulation. The combination of today's incentives with today's safety nets and yesterday's ''light touch'' regulation was devastating.

Yet, regardless of the success of reforms of incentives in—and regulation of—the financial sector, it is reasonable to recoup not only the direct fiscal costs of saving banks but even some of the wider fiscal costs of the crisis. The time has come for some carefully judged populism. A one-off windfall tax on bonuses would make the pain ahead for society so very much more bearable. Try it: millions will love it.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I want to thank Senator WEBB for offering this amendment, which is the same text as our bill that we introduced about a month ago. I think Senator WEBB has made an excellent case for this very important amendment which will reduce the deficit. It is an amendment that I believe reflects fairness and justice and the American way.

In 2008 and 2009, the financial sector, as well as the automobile industry, received generous and unprecedented aid from taxpayers. It was done in order to stave off another Great Depression. It was a tough vote to make, and we did it because we believed we were on the brink of another Great Depression and, frankly, a financial collapse. If we remember back to those days, credit was frozen, businesses couldn't borrow, and we were hearing predictions that this could be the end of capitalism. We heard that from Republicans and Democrats alike. So what we did has worked. We have avoided a Great Depression. The economy is growing, although we are very worried about the slow pace of job creation, which is why we are working so hard to continue to create new jobs.

But if we take a look at the financial institutions which received this huge bailout, what we see is they showed a resounding economic recovery in 2009. Thanks to taxpayer assistance, many of these companies are posting record profits. So you have these companies posting record profits, that benefited when times were bad with taxpayer help, and now they are paying out multimillion dollar bonuses to their top executives.

The United States pays its President—our highest paid Federal official—$400,000. These company leaders are earning millions of dollars, and then, on top of that, bonuses. So what Senator WEBB and I are saying is this: If you have received a bonus of $400,000 or more from one of the top recipients of the taxpayer bailout, you should pay a special one-time fee—50 percent of that bonus, which is on top of your salary. Fifty percent of the bonus of $400,000 or more should go back to the taxpayers and reduce our deficit.

It is hard for me to imagine how these financial companies, which were bailed out by taxpayers, could have such a deaf ear to the plight of America's workers and why they would embark upon these enormous bonuses, especially since they are not lending the monies that we think they ought to lend to businesses. They are actually cutting back on lending to qualified businesses—I think it is an 18-percent reduction in loans to businesses—yet they are paying out these enormous bonuses. So what Senator WEBB and I are saying is we want a one-time, 50-percent fee paid on the bonus that exceeds $400,000. This fee would only affect those recipients at the largest and most major companies who received this bailout.

I want to reiterate this. The fee is paid on the bonuses that exceed $400,000. We don't touch the bonuses $400,000 or less. We are making a point. And even though we have been fair, it will return to the Treasury about $10 billion, is our estimate, over time.

It is only fair that these institutions, which were so greatly assisted in 2009, should help our Nation with our fiscal problems. We inherited those problems from this economic collapse. We know that when President Bush handed the keys over to President Obama there already was a huge deficit in place, but President Obama had to act. We had to pass an economic recovery act. We had to make sure credit was flowing. So it added still more to the debt, and it seems to me only fair that people who are at those institutions that were bailed out—which only exist because of the generosity of taxpayers, because we knew if they failed there would be big trouble—if their bonuses are over $400,000 they ought to pay this special one-time fee back to taxpayers.

Reducing the deficit is important and fairness is important. I want to thank my colleague from Virginia for working with me on this legislation, and I urge the Senate, in a bipartisan way, to join us in supporting this commonsense measure. We hear a lot of talk around here about the deficit, the deficit, the deficit. That is a very important priority for us—to reduce this deficit. Here is a way to do it that is totally fair and just. People who work at the institutions that got the biggest bailouts from Uncle Sam to save them, and those people who are now getting these enormous bonuses, ought to make a contribution to deficit reduction. We need it, we think it is right, and we hope there will be a big bipartisan vote in favor of the Webb-Boxer amendment.

I yield the floor.

AMENDMENT NO. 3338

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise to speak in opposition to the amendment submitted by the Senator from South Dakota, Mr. THUNE.

This amendment cloaks itself in the guise of fiscal responsibility, but nothing could be further from the truth. The amendment would rescind funding from the American Recovery Act—the so-called stimulus bill—to pay for the cost of program increases for small businesses. We can all agree that we should do more to support small business, but it is nonsensical to rescind funding from the Recovery Act, which is also creating jobs. I understand all too well that some on the other side of the aisle have argued that the stimulus bill was a mistake, but the facts are proving just the opposite.

Last week, the Congressional Budget Office—the CBO—released a report on the impact of those stimulus funds which have already been spent. The Congressional Budget Office report notes the extremely beneficial impact from this act. The report states that the stimulus funds are responsible for

an increase of somewhere between 1.5 and 3 percent in the gross domestic product during the last quarter of 2009, and with an estimated increase in this first quarter of up to 3.9 percent. Moreover, the CBO states that the stimulus bill accounted for an increase of at least 1 million jobs in the fourth quarter of 2009, and possibly as many as 2.9 million jobs. This is something to ponder.

The one thing the American people all agree upon is that we need to be doing more to create jobs. The American Recovery Act is doing just that. CBO estimates that the level of jobs created through 2010 from stimulus funds could be as high as 3.4 million jobs. That would mean a decline in unemployment of 1.8 percent in this country. No other action by this Congress has provided this kind of positive impact on the job market. So what possible logic is there in rescinding funds from this act which is providing so many benefits to the American people? Why would we support an amendment to cut funding from the act which is clearly helping to reduce devastating job losses?

No one can argue that the stimulus bill isn't working. The proof is at least a million jobs created last quarter. It has had an immensely favorable impact on our economy. I know some of those who oppose the bill don't want to hear it, but that is reality. The numbers from CBO tell the story.

The Thune amendment fails to offer any guidance to which programs it would cut. That is a rather strange amendment. Clearly, it is more politically expedient to simply cite a dollar figure to cut rather than identifying which specific programs the amendment would impact. The Thune amendment offers no direction as to which recovery programs it would shut down. The result could be cuts to the highway funding, new energy technology or reversing efforts to make government buildings and low-income housing more energy efficient.

Moreover, this amendment doesn't even allow the Congress to determine how the funds should be reduced. Instead, it directs the Office of Management and Budget—OMB—to determine where to reduce funding. I cannot believe the authors of this amendment want the Senate to give up the power of the purse to the bureaucrats at OMB to determine where we should spend our taxpayers' funds, but this is what this amendment would do.

For many reasons, this is a bad amendment. It is exactly what the country does not need at this time. We all know that the No. 1 malady facing the country today is unemployment. We now have proof from the Congressional Budget Office that the stimulus bill was the exact right medicine to treat this illness. I urge my colleagues to reject this amendment and allow our stimulus funds to work as planned: making wise investments in America and putting our people back to work.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Arizona.

Mr. MCCAIN. Mr. President, as we all know, yesterday the President issued a letter that said he was agreeing on ''four policy priorities identified by Republican Members at the meeting'' that we had. And he said, ''I am exploring. I said throughout this process,'' I quote from the President's letter, ''that I'd continue to draw on the best ideas from both parties, and I'm open to these proposals in that spirit.''

So he mentioned several of them. In it, he talks about the four areas he would be considering: One by Senator COBURN, a proposal; another one that a number of people had discussed concerning demonstration projects through Health and Human Services for resolving medical malpractice disputes; one on Medicaid reimbursements; and then expanded health savings accounts.

He said: ''That's why my proposal does not include the Medicare Advantage provision, mentioned by Senator MCCAIN at the meeting, which provided transitional extra benefits for Florida and other States. My proposal eliminates those payments, gradually reducing Medicare Advantage payments across the country relative to fee-for-service Medicare,'' et cetera.

Then he says, ''In addition, my proposal eliminates the Florida FMAP provision, replacing it with additional federal financing'' in all States.

Of course, this raises, I think, first of all, the legitimate question: How did this stuff get in there to start with? How did it take weeks of examining a 2,400-page bill? What about the other sweetheart deals that were included behind closed doors in this 2,400-page legislation? What about the deal for Vermont, a 2.2-percent Medicaid bonus for 6 years for their Medicaid Program? What about the Massachusetts deal, a .5-percent Medicaid bonus for 3 years? Hawaii? It adds money for Hawaii hospitals. Hospitals in Michigan and Connecticut have the option to benefit from higher payments; Connecticut, $100 million for a university hospital. The Senate beneficiary of this provision was not originally known. Montana, South Dakota, North Dakota, Wyoming had increased Medicare payments for those States.

What is unique about those States? Libby, MT, Medicare coverage for individuals exposed to environmental health hazards, asbestos mining. That may be a worthy cause, but shouldn't it be the subject of an authorization and debate and appropriations?

Then, of course, we had the special deals that were cut with the special interests, not just PhRMA. The White House negotiators—the White House negotiators not congressional negotiators—extracted an $80 billion deal to gain more offsets from the drug industry, and their $2-million-a-year lobbyists confirmed the deal in news reports. In exchange for PhRMA supporting the Democratic Senate bill, PhRMA spent $150 million in advertising support. And to further lock in the deal, the White House and Senate Democrats agreed to oppose drug reimportation and a shorter pathway for generic biologics.

To sum all this up, there is no better description of it than what is by the majority leader of the Senate, who, on Christmas Eve, when these deals became known as we examined the 2,400 pages, Senator REID, the majority leader, said—this, I think, encapsules, summarizes the entire process they went through:

A number of States are treated differently from other States. That's what legislation is all about. That's compromise.

I want to repeat that. I want to repeat that quote from Senator REID.

A number of States are treated differently from other States. That's what legislation is all about. That's compromise.

That is not compromise. That is not the word. ''Compromise'' is an agreement between two parties on both sides of the aisle who reach an agreement. This is backroom wheeler dealing, special interest influence, and vote buying. That is what this was. Why would a State be treated differently from another State? Why would we have disparate impact on different States?

One of the reasons I have focused a lot of my attention on the 800,000-person carve-out in the State of Florida, as the President has said that would be changed, is because there are 330,000 Medicare Advantage enrollees in my State. Why should it ever happen that the residents of one State who are in the same program, the exact same Federal program, have different advantages over another State?

I am pleased the President's letter concerning the issue of the 800,000 people in Florida who will receive different coverage, that that would be fixed. But I also point out, as I just chronicled, that is one of many proposals, many sweetheart deals, many backroom deals. It has to be put in the context of the fact that the President of the United States promised the American people that we would change the climate in Washington. Eight times the President of the United States said all of these negotiations on health care reform will take place with C–SPAN cameras in the room.

My understanding of the process now is that there is going to be a vote in the House on the Senate bill and then there will be a reconciliation of 51 votes, which, of course, is offensive to the American people. But I assume, then, the Senate bill as passed will have all of these provisions in it that are these secret, backroom, unsavory deals that were made.

So let me just say it is disappointing, the contrast of the President's statement, when we have learned that last week's health care summit was not really a true effort. In other words, the summit at the Blair House did not reflect what the overwhelming majority

of the American people are demanding; that is, we start over and we stop what has been done.

One of the reasons they want it stopped is because they have become aware of these special deals for special interests and vote purchasing. That is what they have become aware of. So that is one of the major reasons they want us to start over.

At the townhall meetings I have, people are as upset about the process we went through as they are the actual legislative outcome, although they are very unhappy about that.

Let me just say I know a bit about working in a bipartisan fashion. I know people want us to get things done together. I know the approval ratings of Congress are extremely low, and there is a great disconnect between the people of this country and what we are doing in Washington, and they want us to work together, adhering to principle and addressing the enormous challenges that face them. But that means starting over.

We did identify areas on which we could agree. We did identify the fact that there are some areas. But unless we start over, then how in the world can we put lipstick on a pig? It is still a pig. It is still a bad and unsavory process that we went through in order to reach the legislative package we have now.

What we really need to do is start over and then we can get rid of all of these. We can get rid of the ''Louisiana purchase,'' and Vermont and Massachusetts and Hawaii and Michigan, Connecticut—Connecticut twice, one $100 million for a hospital and then higher payments—Montana, South Dakota, North Dakota, Wyoming. We can get rid of all of these if we start over.

I point out, finally, because we are going to be talking a lot about this—and I know other colleagues of mine are waiting to speak—I just point out again this whole issue of reconciliation. A lot of Americans had never heard that word before, certainly not in this context before this came up. But the word ''reconciliation'' means we would reconcile differences on small issues between the two bodies. It was the product of Senator ROBERT BYRD, who has said unequivocally that health care—that Medicare and health care should not be included in this process. It was Senator ROBERT BYRD who specifically exempted Social Security from being a part of reconciliation. He said, and I quote from Senator ROBERT BYRD:

> I was one of the authors of the legislation that created the budget reconciliation process in 1974 and I am certain that putting health care reform and climate change legislation on a freight train through Congress is an outrage that must be resisted.

That was the author. Of course, all during the time when the other side of the aisle was in the minority they complained bitterly, and I think with some justification, that reconciliation was used as a means of getting legislation through this body, bypassing the 60-vote requirement.

I would like to point out—and it may be a bit self-serving, but I would like to point out that when the so-called nuclear option was up, we would move to a process that only 51 votes would be required in order to confirm judges in this body, I and 13 others joined in a bipartisan fashion, and we said no. We will have circumstances that will attend our votes on confirmation and, for the good of the body, we preserved the 60-vote majority rule that has been the custom in this institution of the Senate in modern times.

The American people are watching very carefully what we are doing. There may be some belief that a lot of Americans are not appreciating what apparently is the plan, and that is to move serious legislation through the Senate with a 51-vote majority, legislation that would affect one-sixth of our gross national product.

I urge my colleagues, as I did when we were considering the ''nuclear option on judges,'' that this nuclear option also be rejected and go back to the 60 votes and maintain the 60-vote majority requirement that basically governs our proceedings in the Senate.

Let's start over. Let's listen to Warren Buffett, a strong supporter of the President of the United States. He noted that this legislation includes nonsense, backroom deals for special interests.

He said:

> Democrats should cut off all the kinds of things like the 800,000 special people in Florida or the Corn Husker kickback, as they called it, or the Louisiana Purchase, and we are going to get rid of the nonsense. We are just going to focus on costs and we are not going to dream up 2,000 pages of other things.

I hope we will heed the words of Warren Buffet, which basically is that he and the American people want us to start over. They certainly do not want to have legislation enacted by a bare majority. Again, I would remind my colleagues of history. Every major reform that has been enacted by this body, whether it be the Civil Rights Act, whether it be Medicare, whether it be other major reform, it has always been done with overwhelming bipartisan support.

It is not too late. Let's go back to the beginning. Let's start over. We have identified areas we can work together on and certainly reject this idea of 51 votes governing the way this body functions. I think it poses great danger to the future of this institution that all of us who have the privilege of serving here love as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 3353, AS MODIFIED

Mr. SANDERS. Mr. President, I ask unanimous consent that my amendment which is pending, No. 3353, be modified with the changes that are at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. ___. EXTENSION AND MODIFICATION OF CERTAIN ECONOMIC RECOVERY PAYMENTS.

(a) SHORT TITLE.—This section may be cited as the ''Emergency Senior Citizens Relief Act of 2010''.

(b) EXTENSION AND MODIFICATION OF PAYMENTS.—Section 2201 of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) in subsection (a)(1)(A)—

(A) by inserting ''for each of calendar years 2009 and 2010'' after ''shall disburse'',

(B) by inserting ''(for purposes of payments made for calendar year 2009), or the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010 (for purposes of payments made for calendar year 2010)'' after ''the date of the enactment of this Act'', and

(C) by adding at the end the following new sentence: ''In the case of an individual who is eligible for a payment under the preceding sentence by reason of entitlement to a benefit described in subparagraph (B)(i), no such payment shall be made to such individual for calendar year 2010 unless such individual was paid a benefit described in such subparagraph (B)(i) for any month in the 12-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010.'',

(2) in subsection (a)(1)(B)(iii), by inserting ''(for purposes of payments made under this paragraph for calendar year 2009), or the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010 (for purposes of payments made under this paragraph for calendar year 2010)'' before the period at the end,

(3) in subsection (a)(2)—

(A) by inserting '', or who are utilizing a foreign or domestic Army Post Office, Fleet Post Office, or Diplomatic Post Office address'' after ''Northern Mariana Islands'', and

(B) by striking ''current address of record'' and inserting ''address of record, as of the date of certification under subsection (b) for a payment under this section'',

(4) in subsection (a)(3)—

(A) by inserting ''per calendar year (determined with respect to the calendar year for which the payment is made, and without regard to the date such payment is actually paid to such individual)'' after ''only 1 payment under this section'', and

(B) by inserting ''FOR THE SAME YEAR'' after ''PAYMENTS'' in the heading thereof,

(5) in subsection (a)(4)—

(A) by inserting ''(or, in the case of subparagraph (D), shall not be due)'' after ''made'' in the matter preceding subparagraph (A),

(B) by striking subparagraph (A) and inserting the following:

''(A) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(i) or paragraph (1)(B)(ii)(VIII) if—

''(i) for the most recent month of such individual's entitlement in the applicable 3-month period described in paragraph (1); or

''(ii) for any month thereafter which is before the month after the month of the payment;

such individual's benefit under such paragraph was not payable by reason of subsection (x) or (y) of section 202 of the Social Security Act (42 U.S.C. 402) or section 1129A of such Act (42 U.S.C. 1320a–8a);'',

(C) in subparagraph (B), by striking ''3 month period'' and inserting ''applicable 3-month period'',

(D) by striking subparagraph (C) and inserting the following:

''(C) in the case of an individual entitled to a benefit specified in paragraph (1)(C) if—

''(i) for the most recent month of such individual's eligibility in the applicable 3-month period described in paragraph (1); or

''(ii) for any month thereafter which is before the month after the month of the payment;

such individual's benefit under such paragraph was not payable by reason of subsection (e)(1)(A) or (e)(4) of section 1611 (42 U.S.C. 1382) or section 1129A of such Act (42 U.S.C. 1320a–8a); or'',

(E) by striking subparagraph (D) and inserting the following:

''(D) in the case of any individual whose date of death occurs—

''(i) before the date of the receipt of the payment; or

''(ii) in the case of a direct deposit, before the date on which such payment is deposited into such individual's account.'',

(F) by adding at the end the following flush sentence:

''In the case of any individual whose date of death occurs before a payment is negotiated (in the case of a check) or deposited (in the case of a direct deposit), such payment shall not be due and shall not be reissued to the estate of such individual or to any other person.'', and

(G) by adding at the end, as amended by subparagraph (F), the following new sentence: ''Subparagraphs (A)(ii) and (C)(ii) shall apply only in the case of certifications under subsection (b) which are, or but for this paragraph would be, made after the date of the enactment of Emergency Senior Citizens Relief Act of 2010, and shall apply to such certifications without regard to the calendar year of the payments to which such certifications apply.''.

(6) in subsection (a)(5)—

(A) by inserting '', in the case of payments for calendar year 2009, and no later than 120 days after the date of the enactment of the Emergency Senior Citizens Relief Act of 2010, in the case of payments for calendar year 2010'' before the period at the end of the first sentence of subparagraph (A), and

(B) by striking subparagraph (B) and inserting the following:

''(B) DEADLINE.—No payment for calendar year 2009 shall be disbursed under this section after December 31, 2010, and no payment for calendar year 2010 shall be disbursed under this section after December 31, 2011, regardless of any determinations of entitlement to, or eligibility for, such payment made after whichever of such dates is applicable to such payment.'',

(7) in subsection (b), by inserting ''(except that such certification shall be affected by a determination that an individual is an individual described in subparagraph (A), (B), (C), or (D) of subsection (a)(4) during a period described in such subparagraphs), and no individual shall be certified to receive a payment under this section for a calendar year if such individual has at any time been denied certification for such a payment for such calendar year by reason of subparagraph (A)(ii) or (C)(ii) of subsection (a)(4) (unless such individual is subsequently determined not to have been an individual described in either such subparagraph at the time of such denial)'' before the period at the end of the last sentence,

(8) in subsection (c), by striking paragraph (4) and inserting the following:

''(4) PAYMENTS SUBJECT TO OFFSET AND RECLAMATION.—Notwithstanding paragraph (3), any payment made under this section—

''(A) shall, in the case of a payment by direct deposit which is made after the date of the enactment of the Emergency Senior Citizens Relief Act of 2010, be subject to the reclamation provisions under subpart B of part 210 of title 31, Code of Federal Regulations (relating to reclamation of benefit payments); and

''(B) shall not, for purposes of section 3716 of title 31, United States Code, be considered a benefit payment or cash benefit made under the applicable program described in subparagraph (B) or (C) of subsection (a)(1), and all amounts paid shall be subject to offset under such section 3716 to collect delinquent debts.'',

(9) in subsection (e)—

(A) by striking ''2011'' and inserting ''2012'',

(B) by inserting ''section _____(c) of the Emergency Senior Citizens Relief Act of 2010,'' after ''section 2202,'' in paragraph (1), and

(C) by adding at the following new paragraph:

''(5)(A) For the Secretary of the Treasury, an additional $5,200,000 for purposes described in paragraph (1).

''(B) For the Commissioner of Social Security, an additional $5,000,000 for the purposes described in paragraph (2)(B).

''(C) For the Railroad Retirement Board, an additional $600,000 for the purposes described in paragraph (3)(B).

''(D) For the Secretary of Veterans Affairs, an additional $625,000 for the Information Systems Technology account''.

(c) EXTENSION OF SPECIAL CREDIT FOR CERTAIN GOVERNMENT RETIREES.—

(1) IN GENERAL.—In the case of an eligible individual (as defined in section 2202(b) of the American Recovery and Reinvestment Tax Act of 2009, applied by substituting ''2010'' for ''2009''), with respect to the first taxable year of such individual beginning in 2010, section 2202 of the American Recovery and Reinvestment Tax Act of 2009 shall be applied by substituting ''2010'' for ''2009'' each place it appears.

(2) CONFORMING AMENDMENT.—Subsection (c) of section 36A of the Internal Revenue Code of 1986 is amended by inserting '', and any credit allowed to the taxpayer under section _____(c)(1) of the Emergency Senior Citizens Relief Act of 2010'' after ''the American Recovery and Reinvestment Tax Act of 2009''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) APPLICATION OF RULE RELATING TO DECEASED INDIVIDUALS.—The amendment made by subsection (a)(5)(F) shall take effect as if included in section 2201 of the American Recovery and Reinvestment Tax Act of 2009.

(e) EMERGENCY DESIGNATION.—This section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (P.L. 111–139), and designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

Mr. SANDERS. I ask unanimous consent that Senator MENENDEZ of New Jersey be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANDERS. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANDERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mr. SANDERS. Madam President, as senior citizens and disabled veterans all over this country know, this is the first year since 1975—36 years ago—that there will not be a Social Security cost-of-living adjustment or COLA. In my view, the fact that people in need—seniors, disabled veterans, people who have disabilities—will not be receiving a COLA this year is wrong and it is an issue we have to address and I hope we will address it successfully this afternoon, in terms of the amendment I will offer.

The reality is, in recent years, senior citizens, veterans, and persons with disabilities have slipped out of the middle class and into poverty. That is a reality—out of the middle class and into poverty. The reality is, today prescription drug costs are soaring, medical care costs for seniors and disabled people are soaring, and heating oil has gone through the roof, especially relevant to those of us in cold-weather States.

At a time when millions of seniors have seen the value of their pensions, their homes, and their life savings plummet, we cannot turn our back on some of the most vulnerable people in this country. They are hurting and they need our emergency support and that is why I am offering, today, along with Senators DODD, LEAHY, WHITEHOUSE, GILLIBRAND, LAUTENBERG, BEGICH, STABENOW, and MENENDEZ, an amendment which will provide over 55 million seniors, veterans, and persons with disabilities $250—a one-time payment—in much needed emergency relief. This $250 emergency payment is equivalent to a 2-percent increase in benefits for the average Social Security retiree, and it is the same amount seniors received last year as part of the Recovery Act.

Two percent is not a lot of money, but it will, in fact, provide much needed help to millions of people who are demanding we not turn our back on them. This amendment is supported by a wide array of seniors and veterans organizations representing tens of millions of Americans. Let me give some of the organizations that are supporting this amendment: the AARP, which is the largest senior group in America; the American Legion, the largest veterans group in America; the Veterans of Foreign Wars; the National Committee to Preserve Social Security and Medicare; the American Federation of Teachers Program on Retirement and Retirees; the Disabled American Veterans; the Alliance for Retired Americans; Easter Seals; the Military Officers Association; the Vietnam Veterans of America; the National Council on Aging; AMVETS; and many other organizations.

One of the side benefits of this amendment is that funds directed to this population will go almost immediately into the economy. These are folks who will spend that money, providing the quickest possible stimulus to local economies and thus creating jobs in every community in our country. President Obama is strongly supportive of this $250 in emergency relief to seniors. The President has included it in his budget, and he has also recommended it be included in the underlying legislation we are debating today.

Here is what the President has said about this issue:

Even as we seek to bring about recovery, we must act on behalf of those hardest hit by this recession. That is why I am announcing my support for an additional $250 in emergency recovery assistance to seniors, veterans, and people with disabilities to help them make it through these difficult times.

I very much appreciate the President's support for what we are trying to do here today.

In Vermont and all across this country, ordinary people believe the Congress is way out of touch with the realities of their lives. They believe that we just do not get it, that we do not understand that all over this country millions of people are hurting and that sometimes they are hurting desperately, that people are frantically trying to keep bread on their tables. People are trying to make sure they and their families can live with dignity, and they wonder if we in Congress get it. They know we are there for Wall Street. They know that. They know we are there to take care of big banks and insurance companies and drug companies, but they are not quite sure we are there to take care of vulnerable people who are elderly and who are disabled veterans.

Let me read some quotes from organizations and individuals on this issue. This is what the VFW has to say in support of this legislation:

This year veterans and seniors will not receive COLA. This could not come at a worse time. Your legislation would provide a one-time check of $250 to 1.4 million veterans, 48.9 million Social Security recipients, and 5.1 million SSI recipients. We believe that this will provide some relief to those veterans and seniors living on fixed incomes. . . .

We thank the VFW very much for their support.

Let me quote very briefly from the National Committee to Preserve Social Security and Medicare:

The National Committee strongly urges you to pass legislation to provide a $250 payment to our Nation's seniors who did not receive a COLA this year. It is vitally important that we provide help for seniors of modest means who have been adversely affected by the economic recession and rapidly rising health care costs.

Here is a quote from AARP, a group that represents over 40 million Americans age 55 and older, in support of this amendment. This is what they say:

For over three decades, millions of Americans have counted on annual increases to help make ends meet. In this economy, having this protection is even more critical for the financial security of all older Americans. AARP applauds the President for urging Congress to extend for 2010 the $250 economic relief provided to older Americans last year.

Let me quote again from another statement by AARP which I think makes this case very cogently. I think they nail it, and they tell us why it is absolutely imperative that we pass this legislation.

Last year, the Social Security Administration announced that for the first time since it began in 1975, seniors will not receive an automatic cost of living adjustment for 2010. Although the lack of a COLA was triggered by low overall inflation—

And here is the point—

the costs of the things seniors depend on most—prescription drugs and health care—have continued to increase above inflation. Seniors spend an average of 30 percent of their income on health care costs, 6 times greater than what those with employer-sponsored health care coverage spend, and these prescription drug costs, premiums, and copays have skyrocketed.

I think that is the main point to be made today. That is why we should support this one-time payment.

AARP, of course, is a large national organization.

Let me give some quotes from letters I have received from Vermont and from around the country.

A gentleman from central Vermont writes:

As you know, Social Security has not given a COLA increase on benefits in 2010, based on the CPI. I did some research and found these increases from January 2009 to January 2010.

This is what he has calculated.

Power rates are up by 7 percent; heating oil up by 15 percent; propane up by 24 percent; property taxes up 3.7 percent; gasoline up 16.6 percent; food up, conservatively speaking, 3 percent.

Here is where he said:

The CPI was obviously done by statisticians on vacation in Jamaica while sipping some tropical concoctions that impaired their judgment. These things above add up to nearly $3,000. To cover this, I would require a 12 percent increase in my disability benefits.

This is from central Vermont. I do not agree with the writer of this letter that the statisticians came to their conclusions by sipping tropical concoctions in Jamaica. I don't think that is the case. But I do believe he is correct in suggesting that the methodology by which COLAs for seniors are established is not right. Here is why. COLA increases are determined by a look at the purchasing practices of the entire population—all of us—and that is not fair to seniors today, whose purchasing needs are very different from the average person's. As the AARP pointed out, seniors spend a very disproportionate amount of their limited incomes on health care, prescription drugs, et cetera. Those costs have gone up. In other words, while costs may have gone down for younger people who may be purchasing laptop computers, IPODs, GPSs, flatscreen TVs, cell phones, and other products, they have not gone down for millions of seniors who are dependent and spend a whole lot on health care. By the way, that is why, when I was in the House, I offered legislation which received very strong bipartisan support to create a separate index for seniors in determining their COLAs. I do believe that is the direction we have to go.

I have received many letters. Let me read one more.

This comes from New Jersey. This is Claire from New Jersey:

I am 82 years old. Having been widowed and bankrupt at age 37 to raise my 3 young children alone, I thought that with my Social Security and my small pension plus by savings, I would never have to depend on my children to care for me in my old age. But now that my savings have been depleted by 30 percent and my health care insurance is costing me $3,200 a year, I am very worried if my savings will last me much longer.

Elizabeth in Spur, TX, writes:

Social Security is my main source of income. I have bills that I couldn't pay if it wasn't for this income. I think that it is a disgrace that the Government will bail out the banks and car manufacturers but not sure if the elderly will get a COLA. The elderly are the people that have kept this country together for years and they are considering not giving them a little raise? I wish that some Members of the Congress and the Senate had to live on the income that we have to and see how they can manage, like the saying goes, if the shoe was on the other foot.

Let me conclude by pointing out that there is bipartisan support for the concept we are talking about today, especially in the House of Representatives. In that body, in the House, Congressmen WALTER JONES, RODNEY ALEXANDER, PHIL GINGREY, and ROSCOE BARTLETT—all Republicans—have introduced legislation which, frankly, goes further than the amendment I am offering. Instead of a one-time payment, they are proposing a 2.9-percent COLA for Social Security, which ends up, obviously, costing a lot more than a one-time payment of about 2 percent.

Here is what Congressman ALEXANDER, a Republican from Louisiana, said about his legislation:

Although the annual adjustment is a small increase, it is a much-needed benefit for our Nation's seniors to help them compensate for inflation and to sustain the skyrocketing prices of health care and prescription drugs. It is evident that the current Social Security system is not keeping up with our seniors' basic needs. Congress must take action today so that our Social Security beneficiaries are protected tomorrow.

That is from Congressman ALEXANDER, a Republican from Louisiana. I agree with the Congressman, and I hope all of my colleagues, Democrats and Republicans, will agree that seniors need emergency relief and they need it now.

Over 90 percent of the individuals who will receive this emergency relief make less than $75,000 and over 8 million who will receive help under this amendment make less than $14,000 a year.

That is where we are. Millions of people are wondering whether, in their times of need, when their costs are going up, when they are struggling to maintain their dignity—they are wondering whether a Congress that was there for Wall Street, a Congress which over a period of years has been there for the wealthiest people in this country, whether that same Congress will be there for disabled veterans and our seniors. I hope and believe we will be, and I ask for support for the amendment that will be voted on soon.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

AMENDMENT NO. 3352

Mr. BAUCUS. Mr. President, I understand we will have two amendments we will be voting on shortly; they will be the Thune amendment and the Grassley amendment. Let me say a few words about each—first, the Grassley amendment.

The Grassley amendment essentially extends the formula under which doctors are paid, reimbursed for Medicare services, by 3 more months. The underlying bill, in the formula known as sustainable growth rate, otherwise known as SGR, extends it for 7 months. Frankly, it is my preference, strange as it may sound, that the extension be not 7 months but 3 months, but when we negotiated out these provisions, it turns out the extension was 7 months.

You might ask why I favor a 3-month extension rather than 7 months. There are two reasons. The main reason is that I firmly expect health care reform to be passed within 3 months. If the formula, the sustainable growth rate, is extended for 3 months, that enables us, as soon as health care reform is passed, to then address how we then get a much better solution to the SGR, the sustainable growth rate, and my preference would be a permanent solution. I am afraid if we extend this for, say, 10 months and then health care reform is passed, fixing the permanent formula will not have the same urgency as it otherwise would.

So I do very much believe what we have now in the bill—7 months—is better than a 3-month extension. Another way of saying it, as much as I admire my good friend from Iowa, it would not be appropriate to adopt his amendment. In fact, I do not favor his amendment.

The second reason is probably more compelling, and that is, although he does pay for his amendment by extending the formula for 3 more months, he does so by taking the funds out of a fund which is used for Medicare. It is called the MIF, the Medicare Improvement Fund.

The Medicare Improvement Fund is very—it is almost essential so that we have funds to pay for the underlying health care bill. It is very important that the underlying health care bill be deficit neutral. We are working on certain modifications to the health care reform bill, the bill that has passed the Senate. As we know, it is over in the House.

As the President announced just a few minutes ago, he wants us—I think it is the right thing to do—to pass a modification to that bill by a majority vote. If we are going to do that, we have to make sure it is deficit neutral. In fact, I would like it even better than deficit neutral; that is, that it would reduce the deficit. This Medicare Improvement Fund can help very much toward assuring us that the underlying bill, the health reform bill, is in fact deficit neutral.

So for those two reasons: One, I think it is better for us to pass health care reform using some of the funds in the Medicare Improvement Fund so we can make it deficit neutral, pass it, and then we can work on improving and finding a permanent solution to the sustainable growth rate formula, a formula that has bedeviled us for many years.

For those two reasons, I very much urge us to—as much as I appreciate the efforts of my good friend from Iowa, discretion is the better part of valor here. It would be better for us not to adopt that amendment because we do need those dollars to help make sure we can pay for the underlying health care reform bill.

There is another amendment we will be voting on soon. It is No. 3338, the Thune amendment. I support many of the small business tax relief concepts outlined by Senator THUNE. In fact, many of these will be discussed as part of the small business jobs bill to be introduced quite shortly. By that I mean in the next maybe week or two. I am not sure exactly when, but quite soon the Finance Committee will be marking up a small business jobs bill.

I spoke with Senator LANDRIEU, who is the chairperson of the Small Business Committee. We put together a small business jobs package which we think will be quite effective in helping small business people be more prosperous and have more people able to work for small business firms.

I might say, however, that Senator THUNE's amendment is problematic for two reasons. First, his amendment makes several provisions permanent. This is not the time for that discussion. Making these provisions permanent is expensive, and, therefore, permanent provisions need to be discussed as part of comprehensive tax reform.

Second, Senator THUNE's amendment would be offset with unspent and unallocated mandatory spending of stimulus funds. I might say there is growing evidence that the recovery package is working. There has been some debate over that proposition, but I think the wave of evidence is that the stimulus funds in the recovery package have had a significant positive effect. The Congressional Budget Office has said so.

Over the last 6 months of 2009, for example, the overall economy grew at an annual rate of 4 percent. I am quite confident that had we not passed the stimulus measure, the growth rate would not be at that rate; it would be lower.

In the fourth quarter of 2009, the gross domestic product grew at an annual rate of 5.7 percent. Now, that might be somewhat artificially high because of inventory, but, nevertheless, that was the number. One year earlier, in the fourth quarter of 2008, it was actually declining at an annual rate of more than 5 percent.

Manufacturing in the United States expanded in August for the first time in 19 months. Just think of that. Manufacturing in our country expanded in August for the first time in 19 months.

Housing prices in many parts of the country have stabilized; some are even increasing. The Case-Shiller index of home prices has now risen 7 months in a row.

Unemployment is improving. According to the Congressional Budget Office, last year's Recovery Act added between 1 million and 2.1 million people to our country's payroll. The Recovery Act—that is the stimulus bill I am talking about—lowered the unemployment rate by between .5 percent and 1.5 percentage points from where it otherwise would have been.

In addition, the Federal Reserve and many independent economists have credited the stimulus with playing a role in stabilizing the economy. But we still have work to do. The national unemployment rate stands at 9.7 percent. The CBO estimates that 8 million jobs have been lost over the course of the ''Great Recession.'' They also say unemployment may not be in its natural state of 5 percent until the year 2016.

Revoking stimulus funds now would send exactly the wrong signal to the American economy and to unemployed people in our country. Just think of that. Revoking stimulus funds now. Just think of the signal that would send. We know there are more funds in the pipeline. The stimulus program is working. We take that away, just think of the signal that would send across our country.

We passed stimulus to give a needed boost to our economy. The bill is designed to work over 2 years—2 years. We are in the second year now, just beginning the second year now. We have successfully started down the road to recovery, and the economy would falter if these funds were withdrawn.

I urge my colleagues to oppose this amendment.

AMENDMENT NO. 3338, AS FURTHER MODIFIED

Mr. President, I ask unanimous consent that at 2:45 p.m., the Senate proceed to vote in relation to the following amendments, in the order listed, with no amendments in order to the amendments prior to this vote; that prior to each vote there be 4 minutes of debate equally divided and controlled in the usual form: Thune amendment No. 3338, as modified, and that prior to the vote it be further modified with the

changes at the desk; and the Grassley amendment No. 3352.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment, as further modified, is as follows:

AMENDMENT NO. 3336, AS FURTHER MODIFIED

At the end, insert the following:

TITLE ——ADDITIONAL BUSINESS TAX RELIEF

Subtitle A—General Provisions

SEC. —01. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) PERMANENT INCREASE.—Subsection (b) of section 179 is amended—

(1) by striking ''$25,000'' and all that follows in paragraph (1) and inserting ''$500,000.'',

(2) by striking ''$200,000'' and all that follows in paragraph (2) and inserting ''$2,000,000'',

(3) by striking ''after 2007 and before 2011, the $120,000 and $500,000'' in paragraph (5)(A) and inserting ''after 2009, the $500,000 and the $2,000,000'',

(4) by striking ''2006'' in paragraph (5)(A)(ii) and inserting ''2008'', and

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking ''and before 2011''.

(c) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2008.

SEC. —02. EXTENSION OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k), as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended—

(1) by striking ''January 1, 2011'' in subparagraph (A)(iv) and inserting ''January 1, 2012'', and

(2) by striking ''January 1, 2010'' each place it appears and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended by striking ''JANUARY 1, 2010'' and inserting ''JANUARY 1, 2011''.

(2) The heading for clause (ii) of section 168(k)(2)(B), as so amended, is amended by striking ''PRE-JANUARY 1, 2010'' and inserting ''PRE-JANUARY 1, 2011''.

(3) Subparagraph (D) of section 168(k)(4) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

''(iv) 'January 1, 2011' shall be substituted for 'January 1, 2012' in subparagraph (A)(iv) thereof, and

''(v) 'January 1, 2010' shall be substituted for 'January 1, 2011' each place it appears in subparagraph (A) thereof.''.

(4) Subparagraph (B) of section 168(l)(5), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(5) Subparagraph (C) of section 168(n)(2), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(6) Subparagraph (D) of section 1400L(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(7) Subparagraph (B) of section 1400N(d)(3), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. —03. INCREASED EXCLUSION AND OTHER MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended to read as follows:

''(a) EXCLUSION.—

''(1) IN GENERAL.—In the case of a taxpayer other than a corporation, gross income shall not include the applicable percentage of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent, in the case of stock issued after August 10, 1993, and on or before February 18, 2009,

''(B) 75 percent, in the case of stock issued after February 18, 2009, and on or before the date of the enactment of the American Workers, State, and Business Relief Act of 2010, and

''(C) 100 percent, in the case of stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.

''(3) EMPOWERMENT ZONE BUSINESSES.—

''(A) IN GENERAL.—In the case of qualified small business stock acquired after December 21, 2000, and on or before February 18, 2009, in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer's holding period for such stock, paragraph (2)(A) shall be applied by substituting '60 percent' for '50 percent'.

''(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

''(C) GAIN AFTER 2014 NOT QUALIFIED.—Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

''(D) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1202 is amended by striking ''partial''.

(B) The item relating to section 1202 in the table of sections for part I of subchapter P of chapter 1 is amended by striking ''Partial exclusion'' and inserting ''Exclusion''.

(C) Section 1223(13) is amended by striking ''1202(a)(2),''.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—Paragraph (7) of section 57(a) is amended by adding at the end the following: ''The preceding sentence shall not apply to stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.''.

(c) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking ''$10,000,000'' and inserting ''$15,000,000''.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking ''paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000' '' and inserting ''the amount under paragraph (1)(A) shall be half of the amount otherwise in effect''.

(d) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking ''$50,000,000'' each place it appears and inserting ''$75,000,000''.

(e) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2010, the $15,000,000 amount in subsection (b)(1)(A), the $75,000,000 amount in subsection (d)(1)(A), and the $75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $1,000,000 such amount shall be rounded to the next lowest multiple of $1,000,000.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (c) and (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. —04. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

''(A) 9 percent of the lesser of—

''(i) the qualified production activities income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year, and

''(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

''(i) the eligible small business income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year.''.

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

''(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

''(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term 'eligible small business' means, with respect to any taxable year—

''(A) a corporation the stock of which is not publicly traded, or

''(B) a partnership,

which meets the gross receipts test of section 448(c) (determined by substituting '$50,000,000' for '$5,000,000' each place it appears in such section) for the taxable year (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).

''(2) ELIGIBLE SMALL BUSINESS INCOME.—

''(A) IN GENERAL.—For purposes of this section, the term 'eligible small business income' means the excess of—

''(i) the income of the eligible small business which—

''(I) is attributable to the actual conduct of a trade or business,

''(II) is income from sources within the United States (within the meaning of section 861), and

''(III) is not passive income (as defined in section 904(d)(2)(B)), over

''(ii) the sum of—

''(I) the cost of goods sold that are allocable to such income, and

''(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

''(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

''(i) Any income which is attributable to any property described in section 1400N(p)(3).

''(ii) Any income which is attributable to the ownership or management of any professional sports team.

''(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

''(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

''(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. —05. NONAPPLICATION OF CERTAIN LABOR STANDARDS TO PROJECTS FINANCED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT.

(a) TAX-FAVORED BONDS.—Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 is hereby repealed.

(b) STIMULUS PROJECTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, subchapter IV of chapter 31 of title 40, United States Code, shall not apply to any project funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009.

(2) CONFORMING AMENDMENT.—Section 1606 of division A of the American Recovery and Reinvestment Act of 2009 is hereby repealed.

(3) EFFECTIVE DATE.—This subsection shall apply to contracts entered into after the date of the enactment of this Act.

Subtitle B—Transfer of Stimulus Funds

SEC. —11. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues resulting from the enactment of this title.

Mr. BAUCUS. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I ask unanimous consent to call up amendment No. 3358, that it be pending, and then set it aside.

Mr. BAUCUS. Mr. President, reserving the right to object, first, will the Senator tell me the content of the amendment?

Mr. COBURN. I am sorry?

Mr. BAUCUS. Reserving the right to object, tell me the content.

Mr. COBURN. This is an amendment that discusses the amount that the Secretary of the Senate will put up on our Web site, the amount of new programs; that we publish the total amount of spending, discretionary and mandatory, passed by the Senate that has not been paid for.

Mr. BAUCUS. I appreciate that. This is something that I do not like doing. I am constrained to object, however, because we have had requests from other Senators who wish to bring up their amendments, and, frankly, we have asked them to defer temporarily so we can set up a reasonable order back and forth of Senators.

Regrettably, I do not like objecting, but I do feel constrained to object to the Senator's request.

The ACTING PRESIDENT pro tempore. Objection is heard.

AMENDMENT NO. 3358 TO AMENDMENT NO. 3336

Mr. COBURN. I ask again unanimous consent to call up amendment No. 3358, and immediately after it is called up it be set aside.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 3358 to amendment No. 3336.

Mr. COBURN. I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Senate to be transparent with taxpayers about spending)

At the appropriate place, insert the following:

SEC. _____. SENATE SPENDING DISCLOSURE.

(a) IN GENERAL.—The Secretary of the Senate shall post prominently on the front page of the public website of the Senate (http://www.senate.gov/) the following information:

(1) The total amount of discretionary and direct spending passed by the Senate that has not been paid for, including emergency designated spending or spending otherwise exempted from PAYGO requirements.

(2) The total amount of net spending authorized in legislation passed by the Senate, as scored by CBO.

(3) The number of new government programs created in legislation passed by the Senate.

(4) The totals for paragraphs (1) through (3) as passed by both Houses of Congress and signed into law by the President.

(b) DISPLAY.—The information tallies required by subsection (a) shall be itemized by bill and date, updated weekly, and archived by calendar year.

(c) EFFECTIVE DATE.—The PAYGO tally required by subsection (a)(1) shall begin with the date of enactment of the Statutory Pay-As-You-Go Act of 2010 and the authorization tally required by subsection (a)(2) shall apply to all legislation passed beginning January 1, 2010.

Mr. COBURN. I thank my colleague from Montana.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

AMENDMENT NO. 3342 TO AMENDMENT NO. 3336

(Purpose: To amend the Internal Revenue Code of 1986 to impose an excise tax on excessive 2009 bonuses received from certain major recipients of Federal emergency economic assistance, to limit the deduction allowable for such bonuses, and for other purposes)

Mr. BAUCUS. I ask unanimous consent to set aside the pending amendment and call up amendment No. 3342 offered by Senators WEBB and BOXER.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. WEBB and Mrs. BOXER, proposes an amendment numbered 3342 to amendment No. 3336.

Mr. BAUCUS. I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The amendment is printed in the RECORD dated March 1, 2010, under ''Text of Amendments.'')

AMENDMENT NO. 3338

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 4 minutes of debate equally divided prior to a vote in relation to amendment No. 3338, as further modified, offered by the Senator from South Dakota, Mr. THUNE.

Who yields time? If no one yields time, time will be charged equally.

The Senator from Montana.

Mr. BAUCUS. Mr. President, the first two votes will be on the Thune amendment and the Grassley amendment. The Thune amendment has its heart in the right place. It is trying to help small businesses and provide jobs. But, frankly, it has two very significant problems. Therefore, I urge it not be adopted.

First, it makes permanent many provisions of the tax law that actually should be considered in tax reform. This is not the place to be writing tax reform. Our code is riddled with inconsistencies. Many of the provisions in the code fit together. Some don't. There are loopholes. There is a lot of overhaul needed, if we are going to have significant tax reform. We should address those issues at the right time and the right place but not here. It does not make sense to make certain provisions in the Tax Code permanent.

The second flaw is, to pay for his provisions, Senator THUNE uses excess stimulus funds, funds out of the Recovery Act. The CBO says the Recovery Act is working well.

Last month CBO issued its report on the effects of the Recovery Act in the fourth quarter. In that report, CBO said:

CBO estimates that in the fourth quarter of calendar year 2009, the [Recovery Act] added between 1 million and 12.1 million to the number of workers employed in the United States, and it increased the number of full-time-equivalent jobs by between 1.4 million and 3 million.

They say the Recovery Act created or saved between 1 and 3 million jobs. That is why we need to defeat efforts such as those of the amendment offered by the Senator from South Dakota. The Recovery Act is working. Most economists say it is working. If it is working, we should let it continue working. We should not take away dollars from it.

I urge the Thune amendment not be adopted.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Who yields time in favor of the amendment?

Mr. BAUCUS. I don't see Senator THUNE. It may be a bit presumptuous, but I ask unanimous consent that the time be yielded back, although it is not my place to make that request.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAUCUS. Mr. President, I understand he is on his way.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I was going to inquire of the chairman if he had locked in a speaker after the vote.

Mr. BAUCUS. No, it has not been locked in, but I will do so right now. I ask unanimous consent that the Senator from North Dakota, Senator DORGAN, be recognized to speak immediately after the next series of votes and that the Senator from New Hampshire, Mr. GREGG, be recognized to speak thereafter.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

All time has expired.

Mr. BAUCUS. Mr. President, I raise a point of order that the pending Thune amendment violates section 311 of the Congressional Budget Act.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. CORNYN. I move to waive the applicable section of the Budget Act with respect to the amendment and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER (Mr. MERKLEY). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 38, nays 61, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—38

Alexander	Bunning	Corker
Barrasso	Burr	Cornyn
Bennett	Chambliss	Crapo
Bond	Coburn	DeMint
Brown (MA)	Cochran	Ensign
Brownback	Collins	Enzi
Graham	LeMieux	Sessions
Grassley	Lugar	Shelby
Gregg	McCain	Snowe
Hatch	McConnell	Thune
Inhofe	Nelson (NE)	Vitter
Isakson	Risch	Wicker
Kyl	Roberts	

NAYS—61

Akaka	Gillibrand	Murray
Baucus	Hagan	Nelson (FL)
Bayh	Harkin	Pryor
Begich	Inouye	Reed
Bennet	Johanns	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown (OH)	Kerry	Schumer
Burris	Klobuchar	Shaheen
Byrd	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Conrad	Lieberman	Voinovich
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	
Franken	Murkowski	

NOT VOTING—1

Hutchison

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is sustained and the amendment fails.

AMENDMENT NO. 3352

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes of debate prior to a vote in relation to amendment No. 3352 offered by the Senator from Iowa, Mr. GRASSLEY.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I oppose the Grassley amendment for two reasons. I oppose it reluctantly. Senator GRASSLEY is a very decent man. His heart is almost always in the right place. It is in the right place here, but I oppose this amendment.

First, the amendment seeks to extend a stopgap measure for the payments of doctors under Medicare, but we should not prolong stopgap measures. We should pass a short-term stopgap, and then we should make meaningful payment reform for the payment of doctors under Medicare. That is what doctors want. That is what would be very much in the best interests of seniors, and that is the responsible way to govern.

Second, the Grassley amendment takes its offsets away from the underlying health care bill; that is, the bill we are trying to pass in this next several weeks. Thus, it would undercut health care reform. We need the savings we included in the health care bill, especially the health reform bill. We should not be robbing the health care bill of its offsets. For those reasons, I oppose the Grassley amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first, I ask unanimous consent to add Senators BOND and BENNETT as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, my amendment extends critically needed Medicare provisions for all of 2010, not just part of it. It replaces the provisions that are not fully offset with fully offset provisions, and it adds an additional 3 months for the physician update through the end of 2010. This amendment draws additional funds from the Medicare improvement fund to ensure these provisions are fully offset.

My friend from Montana said that is not the place to take the money from, but his substitute amendment takes money from the very same fund. I take a little bit more, yes, but I don't think a few billion in funding needed here will make much of a difference when it comes to the $2.5 trillion cost of health care reform, as was suggested earlier. So I don't see that as a valid argument for not paying for these Medicare provisions.

Going back to the situation at hand, the 30-day extension that passed last night only prevents payment cuts until the end of March. Physicians and Medicare beneficiaries need to have certainty and be ensured access to care. This is the fiscally responsible way to pay for these important Medicare provisions.

We need to pass this very essential amendment now, so I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. How much time do I have remaining?

The PRESIDING OFFICER. There is 57 seconds remaining.

Mr. BAUCUS. Mr. President, this is very simple: $10 billion is $10 billion. This amendment takes $10 billion away from health care reform. We must pass health care reform this year, and we need the dollars we can get. Ten billion dollars is a lot. Right now, as we are trying to put this bill together, we are very close to making sure this budget is deficit neutral. In fact, we would like it to be better than deficit neutral. This $10 billion counts. We should not rob health care reform in order to pay for an extension of the doc fix that is not needed at this time. We will take care of the doc fix after we take care of health care reform.

Mr. GRASSLEY. Mr. President, do I have some time?

The PRESIDING OFFICER. The Senator from Iowa has 26 seconds remaining.

Mr. GRASSLEY. Good. I am glad I have 26 seconds. His amendment takes $8 billion away from the Medicare improvement fund, mine takes $10 billion away.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, for all those reasons, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Texas (Mrs. HUTCHISON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—54

Akaka	Feinstein	Merkley
Baucus	Franken	Mikulski
Bayh	Gillibrand	Murray
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Boxer	Inouye	Reid
Brown (OH)	Johnson	Rockefeller
Burris	Kaufman	Sanders
Byrd	Kerry	Schumer
Cantwell	Klobuchar	Shaheen
Cardin	Kohl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Tester
Conrad	Leahy	Udall (CO)
Dodd	Levin	Udall (NM)
Dorgan	Lieberman	Warner
Durbin	McCaskill	Whitehouse
Feingold	Menendez	Wyden

NAYS—45

Alexander	Crapo	McCain
Barrasso	DeMint	McConnell
Bennett	Ensign	Murkowski
Bingaman	Enzi	Nelson (NE)
Bond	Graham	Nelson (FL)
Brown (MA)	Grassley	Risch
Brownback	Gregg	Roberts
Bunning	Hatch	Sessions
Burr	Inhofe	Shelby
Chambliss	Isakson	Snowe
Coburn	Johanns	Thune
Cochran	Kyl	Vitter
Collins	LeMieux	Voinovich
Corker	Lincoln	Webb
Cornyn	Lugar	Wicker

NOT VOTING—1

Hutchison

The motion was agreed to.

Mr. BAUCUS. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is that following my presentation, Senator GREGG is going to be recognized, or a Republican speaker. I ask unanimous consent that following the Republican speaker, Senator STABENOW be recognized on our side. I do that with the consent of the chairman of the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

COBELL LAWSUIT

Mr. DORGAN. Mr. President, I wish to discuss two amendments, one of which I have filed and one of which I will file shortly. Before I do that, I have spoken with Senator INOUYE, Senator FEINSTEIN, and some others about something that is very important. It is the settlement of the Cobell lawsuit. The Cobell lawsuit has been in the Federal courts for 13 years. After a long period of negotiation between the Secretary of the Interior, other parts of our Federal Government, and the plaintiffs in lawsuit, there is finally an agreement that has been reached. The agreement would provide $3.4 billion to settle outstanding claims and address issues going back well over 100 years in which the Federal Government was supposed to be taking care of the trust accounts of American Indians. Some of those trust accounts were fleeced, stolen, and mismanaged.

This lawsuit has been going on for a long period. The agreement settles the claims of American Indians who lost their money, lost their assets, and lost their income. Many American Indians have died during the process of this lawsuit.

Now that a settlement has been reached, there is an April 16 deadline. The parties to the settlement agreement set an end date by which the Congress must act, or the parties may return to litigation. My hope is that the Congress will be able to meet that deadline. We really do need to put this issue behind us. It is a sorry chapter in this country's history. For over a century we have mismanaged the property, income, and royalties of American Indians. All of this resulted in the filing of a lawsuit.

I commend the Secretary of the Interior, Secretary Salazar, who has worked so hard to reach this agreement.

Having said that, let me describe two amendments I wish to offer to this legislation. One is an amendment I have offered on a number of occasions over the years. It is important to offer it again this year and get it done.

President Obama mentioned during his State of the Union Address that he wanted this legislation passed by the Congress. It is painfully simple. My amendment says when an American business shuts down its manufacturing plant in this country, locks the doors, fires the workers, and then moves the jobs overseas someplace for the purpose of selling the product they produce overseas back into our country, they should not get a tax break. Yet, under today's Tax Code, they, in fact, are rewarded with a tax break.

This amendment would end that ill-advised tax break and say: You are not going to be rewarded anymore in our Tax Code by shipping jobs overseas and then selling the product back into our marketplace. This should have been corrected long ago. It should be corrected now.

The amendment I filed is amendment No. 3375. My hope is we will be able to debate and vote on this amendment.

I described the other day this issue we have of trying to find new jobs and seeing how we can incentivize the creation of new jobs in our country. About 17 million people woke up this morning in this country without work, without a job, and wanting a job and are going to spend today looking for work and not be able to find it. We are trying to find ways to incentivize the creation of jobs. That bill is the faucet, trying to put more jobs in this economy.

What about the drain? What about all these jobs leaking out of this economy to China and elsewhere? Let me describe some of them, if I might. These are well known. I have told other stories on the floor many times.

Levis, the product of America. America invented Levis. People wear Levis all around the world, except Levis are made virtually everywhere in the world except the United States. They are all gone. We do not make one pair of Levis in the United States. Fruit of the Loom underwear; gone to Mexico; gone to Asia. Samsonite went to Mexico, then to China. Maytag now makes their appliances in Mexico and Korea. Hershey's chocolate. You know, Hershey's chocolate advertises York Peppermint Patties and they say: The cool, refreshing taste of mint dipped in dark chocolate will take you miles away. Well, apparently so many miles it ends up in Mexico—Mexico.

I have mentioned often the cookies made by the Nabisco Company—Fig Newtons. If somebody says to you: How about going to have a Mexican dinner, just buy a package of Fig Newtons. They left New Jersey and went to Mexico. I don't know if it is cheaper to shovel fig paste in Mexico than it is in New Jersey, but it is made by a company called Nabisco. You know what that stands for? The National Biscuit Company. Except the national biscuit, in this case, is made in Mexico.

Well, the list goes on and on and on. Hallmark Cards. Hallmark Cards was here for a century—a privately held Kansas City, MO, company, founded by a high school dropout who started the company in 1910 with a shoebox full of postcards. He made a living by selling them while working out of a YMCA in Kansas City, and it became an unbelievably successful greeting card company. All of us know that. Under its current management, despite annual revenues, I understand, of over $4 billion, they started to move jobs from Kansas City to three plants in China. You know, the company who cares enough to send you the very best? In this case, it sends you the very best from China.

My point is that I understand there are a whole lot of companies going to search for people who work for 50 cents an hour and whom they can work 7 days a week, 12 to 14 hours a day, and that is better for their bottom line. It enhances their profit when they can do that. But when they leave America, deciding they are going to produce Etch A Sketch in Shenzhen, China, and then ship it back to a Walmart here in the United States to sell—when that happens, and that town in Ohio that was known for producing Etch A Sketch, the little toy that all of us have used as a child—we ought not be saying good for you, we will give you a tax break.

When the Radio Flyer little red wagon—the wagon we have all ridden in, started by a guy in Chicago, and for 110 years they made Radio Flyer little red wagons in the United States—when they moved the production of little red

wagons to China, we shouldn't give a tax break for those that are sold back into this country—a company that moves their jobs elsewhere in order to produce and then sell back into our country. We ought to say: You know what, you are not going to get a tax break for that.

Let me give an example of two companies, and two companies that make bicycles; all right? They are made in factories that are on the same street corner but on different sides of the street. One is called Huffy Bicycles. Most people have known the Huffy Bicycles and ridden them in their youth. The other is ABC Bicycle, hypothetically. Huffy Bicycles decides they are paying $11 an hour to their American workers, plus benefits, and they think that is way too much to pay an American worker so they leave America and go to China. And by the way, that is true. They did. The other company stays here and says: No, we are going to keep our American workers and keep our American plant open and keep these jobs in America. What is the difference between the two? When they are competing at Sears or Walmart or Kmart in this country, what is the difference between the two bicycles? Well, one was rewarded with a tax break because their production was sent overseas, and the other has a competitive disadvantage because it was made here by American workers. And that ought not stand.

This President asked during his State of the Union Address for us to plug this hole. It raises money, reduces the Federal budget deficit and finally says to American workers: We are on your side. We are not going to give a tax break to companies that ship their jobs overseas and sell their products back in America.

It is a very simple amendment. I don't know anyone who would wish to vote against this amendment. Yet, interestingly enough, I have offered it for many years and have not been successful for a number of reasons. Occasionally, we have had a vote, but most often it gets thrown off in a parliamentary procedure of some type. But this is a bill that is open to amendment on revenue issues, and my hope is that at last—at long, long last—at a time when so many millions of Americans wish they had a job and don't, at a time when we still have so many companies moving their jobs away from our country to other countries only to sell back into our country that which they made in China or elsewhere, my hope is that finally we will say we won't allow this to happen any more with a reward in our Tax Code for those that do it.

I was on an airplane a while back, and I sat next to a guy who was wearing casual clothes—sweat pants and so on—and we said hello to each other. I said: Where are you headed? He said: Asia. That is why I am dressed this way; I have 25 more hours of flying. I said: What are you going to do when you reach Asia? He said: Well, I am going to Thailand, Singapore, and I am going to China. He said: What we are trying to do with my company is we are trying to move our jobs from the United States to Asian locations and save some money in the production of these products we make. So I am going out now to Thailand and Singapore and China to scout out locations for our new manufacturing plants in Asia because we are going to move our jobs.

I was sitting next to this guy thinking: You know, there will be hundreds and hundreds of American workers who, that morning, instead of getting on an airplane as he and I did, are going to a manufacturing plant somewhere to make a product for his company, but they don't know yet that he is on an airplane to try to find a way how to move their jobs to Singapore or to China or to Thailand. And isn't that a shame?

Some will listen to this and say: Well, that is just protectionism. Listen, closing a tax break that rewards people from moving jobs overseas isn't protectionism. Keeping that tax break open is, in my judgment, ignorance. Standing up for fair play and standing up for American jobs is not protectionism, it is doing everything we ought to do to be supportive of the kind of economy we want and the kind of good jobs we want in this country's future.

That is one amendment. The second amendment deals with an issue that most people, I am sure, can hardly believe their ears when they hear about it. This is an issue I have spoken about previously, and some of this issue has been resolved but not all of it. As is usually the case when something abusive is happening, it gets shut down in part but not in total, because you say: Okay, let's stop it as of this date.

I am talking about something called SILOs and LILOs especially SILOs, or sale-in/lease out transactions. Most people don't know what that means—sale in, lease out. It doesn't mean they aren't smart. It is a title in the Tax Code that describes an activity that was created by some people who wanted to avoid paying U.S. taxes. They want everything America has to offer, they just don't want to pay taxes to their country.

Let me describe what has been happening in the last couple of decades, and this is almost a perfect description of the perversion in our economy and the greed in our economy by some—not all, but by some—who steered this place into the ditch. Here it is: A cross-border lease of Dortmund, Germany's streetcars—a company called First Union Bank, which is now something else because it has been bought two additional times. So First Union Bank in America wants to lease streetcars in Germany. Why would it want to lease streetcars in Germany? Because it wants to run German streetcars? No, because from a German city it can lease the city's streetcars and take those assets in a lease-in/ leaseback transaction and get tax breaks so it can avoid paying U.S. taxes.

Transactions involving streetcars is one thing, but here is a tunnel that one of our American companies bought—a tunnel in Antwerp, Belgium. Think of that, an American company deciding to buy a tunnel in Antwerp, Belgium. Why? Because they like tunnels, know something about tunnels? They don't have the foggiest idea about Belgian tunnels. It is a sale leaseback transaction used to avoid paying U.S. taxes.

But here is one that really struck my interest. Wachovia Bank which, by the way, has now been purchased by someone else. They ended up with a belly full of bad assets. And we ought to ask the question how did that happen? How did it happen that a massive amount of toxic bad assets landed in the belly of this bank—Wachovia Bank? But Wachovia Bank bought a sewer system in Bochum, Germany. Why would Wachovia Bank want to own a sewer in Germany? Because they have people on the board of directors who are experts in German sewers? I don't think so. Do we think maybe they have hired a new class of MBAs who are specialists in sewer valuations in Germany? I don't think so. An American bank wants to buy a German sewer system for the fact that it is a sale and leaseback. The German sewer system is sold to an American bank. Does this bank ever go over and seize possession of a sewer pipe? They never even see a sewer pipe. All they want is a paper transaction so they can depreciate the property to avoid paying U.S. taxes. And in this case it is reported on Frontline that Wachovia Bank saved $175 million by this scam of buying a German city's sewer system. Unbelievable.

By the way, this has been going on for some while before we were able to shut most of it down. I would also say that I often speak of the fact that there are some companies that are now stepping forward to the IRS—I believe about 45 companies have now stepped forward—and said they are willing to pay for the benefits they received, even prior to the time this was shut down. But there are some transactions that were allowed to continue, and we have American companies that continue to get the benefit of those transactions. My position is simple: This is abusive, it is unmitigated greed, and it should have been shut down—all of it shut down. The Internal Revenue Service, by the way, is still going back even beyond that date which was in the Federal law and challenging these in court. In fact, there are a couple of very large companies at this point that are still disputing this and saying these are perfectly reasonable transactions. Shame on them. This doesn't meet a third grade laugh test—an American company picking up a German sewer system.

In fact, one American company bought a city hall from a German town, and the auditor in that town said: Well, we don't understand it, but

if that is what the Americans want to do with their money, God bless them. It wasn't their money. What they were doing was sucking money out of the coffers of this government, because in many cases they are companies that are trying to find every way possible to avoid their Federal tax obligations. Yes, they want all the benefits America has to offer, except they don't want the obligation of paying their full measure of taxes, as most people do.

Most people who go to work in the mornings work an honest day, they come home, and at the end of the year, when it is time, they file their tax return. They have had their withholdings and they pay their taxes to our country, to our government. But there are a whole lot of interests that are much bigger that find ways to send people around the world not only to move their jobs to where they can find 50-cent-an-hour labor, but perhaps while they are there, they might pick up a sewer system to boot so they can avoid paying U.S. taxes. That way they can move your job overseas and avoid paying taxes at the same time, because you get a tax break for shutting your American plant down and moving your American jobs overseas, which I hope to shut down with my first amendment; and then you get a tax break by buying a German sewer system and depreciating it and getting a tax break under the Tax Code.

Both of these amendments deserve to be passed. Both would raise money for the Federal Government, both would reduce the Federal deficit and both have substantial merit. Will I get a vote on these? I hope so. One is now filed and the other will be filed in a short period of time. I hope very much that I will be able to get the opportunity to have a vote here in the Senate and close these tax breaks.

Let me say that there are a whole lot of businesses in this country that are working very hard to make it. Many American businesses have had to steer through very difficult times. This is the deepest recession since the Great Depression, and there are a lot of businesses, large, medium, and small, that are struggling every day to try to navigate through this deep economic abyss. Boy, I give them great credit. Many of these owners have risked their entire life savings to run their business. They get up in the morning and put the key in the door and open their businesses.

So, look, what I want to have happen is for us to recognize good businesses in this country that do the right thing every day—that hire American workers, produce products and strengthen this country's economy. My point is those businesses are at a significant disadvantage if we continue to say to the business across the street: Move to China and produce these products in China and, by the way, we will give you a tax break for doing it. And we say to those who stay here: You know what, you shouldn't have stayed here, because you would have gotten a tax break if you had left. That is exactly the wrong message. What we should do for those who stay is to reward them. They are the heroes. They make up the economy, the foundation, the strength of what America is, instead of rewarding those who do exactly the wrong thing for this country.

These are my two amendments that I would like to offer.

Let me just, finally, say this. I know I get upset sometimes when I talk about the abusive pieces of this tax policy and the abuse, I think, of trade policy that has resulted in the loss of more than 5 million manufacturing jobs. By the way, the loss of 1.5 million manufacturing jobs in the last 12 to 15 months—think of that. Think of 1.5 million households in which someone wakes up and says: I am jobless. I don't have a job anymore. I used to make furniture but that furniture manufacturer is gone. I used to make tool and die machines—gone. You name it.

I told the story the other day on the floor of the Senate about Pennsylvania House furniture, which is such a great example of what is happening in this country. Governor Wendell did everything he could to keep this great furniture company in Pennsylvania. They use Pennsylvania wood, so Pennsylvania House furniture was known as an upscale furniture manufacturer that used special wood from Pennsylvania. Then they were purchased by La-Z-Boy. By the way, La-Z-Boy is also leaving, but that is a different story.

They were purchased by La-Z-Boy, and La-Z-Boy decided they were moving Pennsylvania House furniture to China and just going to ship the Pennsylvania wood to China and put together the furniture and ship the furniture back. Governor Wendell did everything he could to prevent that from happening, but it happened.

The last day of work at the factory where they had spent a century, the craftsmen who put that furniture together got together, and the last piece of Pennsylvania House furniture that came off the manufacturing line every employee in that company gathered around, they tipped it upside-down, and every one of them signed the bottom. Somebody in this country, perhaps, has a piece of furniture they don't quite understand. It has the signature of every last craftsman to work in that manufacturing plant in this country.

That pride of production and contribution to this country is by workers who just want a job, who want a country that does not move its manufacturing jobs elsewhere but values its manufacturing jobs in this country.

In 2008, La-Z-Boy said in the next 2 years it would move 1,050 employees in Dayton, OH, to the plant in the Mexican State of Coahuila. They previously moved other jobs to China, but they did say this:

> We regret the impact the moves will have on the families and lives of those employed affected, and greatly appreciate the contribution each of them made with their dedicated services.

So 1,050 people discovered their jobs were gone. But the same company, then, is the one who moved the Pennsylvania House furniture long before that.

We have a lot to fix in this country, but we will. I am convinced our country's better days are ahead if we make the right judgments. If we pass both of these amendments I have offered, it will make a contribution significantly toward things that matter a lot in American families: good jobs that pay well that give them some confidence in the future.

I suspect I can't ask unanimous consent to pass both pieces, both amendments at the moment, so I will negotiate with the chairman of the committee to see if we can't get votes on both in the days to come.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FRANKEN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3382 TO AMENDMENT NO. 3336

Ms. STABENOW. I realize Senator GREGG is up to speak. I do not see him on the floor. I will be only a few minutes, and then I will ask unanimous consent he be recognized after me when he comes to the floor.

Mr. President, in a few moments I am pleased I am going to be offering an amendment that is strongly supported by Members on both sides of the aisle to focus on jobs and investments in equipment for companies that are currently not making a profit—which, unfortunately, is too many across the country right now. We want to make sure they have an opportunity to have the capital they need to be able to grow as well.

I thank Senator HATCH and Senator SCHUMER, Senator CRAPO, Senator SNOWE, and Senator RISCH for working with me on an amendment that would provide companies with an immediate source of capital to make increased investments in our country and spur job creation.

Since the start of the recession in December of 2007, the Nation has lost more than 8 million jobs, as we know. It is an economic tsunami, what has happened to families in this country. The national unemployment rate skyrocketed from 5 percent to 10 percent as companies are forced to cut costs and to lay off workers to remain viable just to keep the ship afloat.

Our State, of course, the great State of Michigan, is much worse since we are at about a 14.6-percent unemployment rate right now, and we certainly are feeling the brunt of what has been happening. These companies also continue to face significant challenges in raising much-needed capital for new investments to be able to keep people working.

This amendment would allow struggling companies of all kinds that do not benefit from other similarly designed incentives—such as bonus depreciation or expanding the NOL carryback period, and other things—to utilize their existing AMT credits based on new investments they make in 2010. So if they make investments, we would allow them to use credits they cannot use right now because those credits can only be used against a profit, and they don't have a profit.

In addition to encouraging companies to increase investments to maintain and expand jobs, the amendment also makes available a badly needed source of capital. We have all been talking about access to capital. This is an important way we can make this available at no real cost to the Federal Government. I think that is what is important about this amendment. AMT credits are actually prepayments of tax which the taxpayer can offset with future tax liability, dollar for dollar. So these are prepayments.

Normally, if they were making a profit they would be able to offset their taxes and maintain additional revenue and capital, but they are not in a position to do that right now. So at some point we, in fact, would be giving them credit, and they would be able to use these credits and be able to keep capital. But they cannot right now. So in a sense we are just moving up the day by which they can access the capital that is available with AMT credits. Since the credits never expire, the proposal merely accelerates when the credits are used.

This amendment would allow companies to be able to cash in their built-up tax credit so they can build factories, buy equipment, and create jobs. Specifically, it will allow companies to utilize their existing AMT credits up to 10 percent of a new investment that they make in a manufacturing facility and in equipment purchased this year, in 2010. No company would be able to claim more than 50 percent of the value of the credit.

To accelerate the economic impact of allowing companies to be able to access this capital and use the credits, the proposal would allow for an expedited refund process similar to current law rules for net operating losses.

A company that elects the 5-year, net-operating year-loss carryback enacted earlier, which I supported strongly, would not be eligible to claim the benefits of this proposal. So it would be only those who cannot access other proposals we put forward because of the critical nature of helping companies not making a profit, being able to help them access capital. The amendment would be offset by improving tax compliance from individuals who receive rental income from properties.

The provision, originally proposed in the President's fiscal year 2009–2010 budgets, would require people who received rental income on real estate to be subject to the same information reporting requirements as taxpayers who receive income from a trade or business.

This proposal would benefit a broad range of companies, including airlines, manufacturers, energy companies, high-tech companies—across the board, companies large and small that currently find themselves in a position where they are not making a profit but have built up these prepaid credits.

We have support from the U.S. Chamber of Commerce, the National Association of Manufacturers, the Association of Manufacturing Technology, Association of Equipment Manufacturers, and Motor and Equipment Manufacturers Association. Some of the many U.S. employers who support the proposal are American Airlines, Applied Micro Devices, Arch Coal, Associated Builders and Contractors, Bosch, Cliffs Natural Resources, CMS Energy, Consul Energy, Delta Airlines, Daimler, General Motors, Goodyear, Micron, National Mining Association, Owens Illinois, Peabody Energy, Qwest, T-mobile, and Xerox.

These are all major companies employing thousands, tens or hundreds of thousands of people who are needing access to capital. They have prepaid these credits. They need access to capital now so they can maintain their workforce and, hopefully, expand it and invest in the equipment that will allow them to grow.

This amendment, again, is one that has broad bipartisan support. It will allow us to essentially move forward the ability for companies to use these AMT credits that they have already paid into, the dollars they have already paid. This is something that will allow companies to get the equipment, the tools that are necessary; so as they are using that jobs credit we passed and hiring people or continuing to be able to grow and invest in the business and keep the employees they have, that they will be able to get some assistance within the legislation we are passing.

Again, let me just indicate that I very much appreciate colleagues who have joined me. Senator HATCH, Senator SCHUMER, Senator CRAPO, Senator SNOWE, Senator RISCH, and we have others, I know, who are very interested in joining us as well.

I believe at this point I have not heard for sure if we are in a position to actually call up the amendment at this point.

At the moment, if we are in a position to call up the amendment? I am looking to staff to determine whether we are in a position to do that at this point? We are? All right.

Then, Mr. President, I ask unanimous consent the pending amendment be set aside, and I will call up amendment No. 3382.

Mr. BAUCUS. Mr. President, I don't know that we are in that position yet at this point.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 3382.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Ms. STABENOW], for herself, Mr. HATCH, and Mr. SCHUMER, proposes an amendment numbered 3382 to Amendment No. 3336.

Ms. STABENOW. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to allow companies to utilize existing alternative minimum tax credits to create and maintain American jobs through new domestic investments, and for other purposes)

At the end of title VI, add the following:

SEC. 602. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT CREDITS DETERMINED BY DOMESTIC INVESTMENT.

(a) IN GENERAL.—Section 53 is amended by adding at the end the following new subsection:

''(g) ELECTION FOR CORPORATIONS WITH UNUSED CREDITS.—

''(1) IN GENERAL.—If a corporation elects to have this subsection apply, then notwithstanding any other provision of law, the limitation imposed by subsection (c) for any such taxable year shall be increased by the AMT credit adjustment amount.

''(2) AMT CREDIT ADJUSTMENT AMOUNT.—For purposes of paragraph (1), the term 'AMT credit adjustment amount' means with respect to any taxable year beginning in 2010, the lesser of—

''(A) 50 percent of a corporation's minimum tax credit determined under subsection (b), or

''(B) 10 percent of new domestic investments made during such taxable year.

''(3) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term 'new domestic investments' means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

''(A) the original use of which commences with the taxpayer during the taxable year, and

''(B) which is placed in service in the United States by the taxpayer during such taxable year.

''(4) CREDIT REFUNDABLE.—For purposes of subsections (b) and (c) of section 6401, the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C of such part (and not to any other subpart).

''(5) ELECTION.—

''(A) IN GENERAL.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once effective, may be revoked only with the consent of the Secretary.

''(B) INTERIM ELECTIONS.—Until such time as the Secretary prescribes a manner for making an election under this subsection, a

taxpayer is treated as having made a valid election by providing written notification to the Secretary and the Commissioner of Internal Revenue of such election.

''(6) TREATMENT OF CERTAIN PARTNERSHIP INVESTMENTS.—For purposes of this subsection, any corporation's allocable share of any new domestic investments by a partnership more than 90 percent of the capital and profits interest in which is owned by such corporation (directly or indirectly) at all times during the taxable year in which an election under this subsection is in effect shall be considered new domestic investments of such corporation for such taxable year.

''(7) NO DOUBLE BENEFIT.—Notwithstanding clause (iii)(II) of section 172(b)(1)(H), any taxpayer which has previously made an election under such section shall be deemed to have revoked such election by the making of its first election under this subsection.

''(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this subsection, including to prevent fraud and abuse under this subsection.

''(9) TERMINATION.—This subsection shall not apply to any taxable year that begins after December 31, 2010.''.

(b) QUICK REFUND OF REFUNDABLE CREDIT.—Section 6425 is amended by adding at the end the following new subsection:

''(e) ALLOWANCE OF AMT CREDIT ADJUSTMENT AMOUNT.—The amount of an adjustment under this section as determined under subsection (c)(2) for any taxable year may be increased to the extent of the corporation's AMT credit adjustment amount determined under section 53(g) for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 603. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

''(1) IN GENERAL.—Solely for purposes of subsection (a) and except as provided in paragraph (2), a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any individual, including any individual who is an active member of the uniformed services, if substantially all rental income is derived from renting the principal residence (within the meaning of section 121) of such individual on a temporary basis,

''(B) any individual who receives rental income of not more than the minimal amount, as determined under regulations prescribed by the Secretary, and

''(C) any other individual for whom the requirements of this section would cause hardship, as determined under regulations prescribed by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

Ms. STABENOW. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. LANDRIEU. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3335, AS MODIFIED

Ms. LANDRIEU. Mr. President, I ask unanimous consent to set aside the pending amendment and to call up amendment No. 3335 for the purposes of modification only.

I have already spoken about the amendment at length. I have already submitted a lot of documents to the RECORD about the importance of this amendment. But to recap, the amendment I am offering on behalf of myself and Senators VITTER, COCHRAN, and WICKER is an amendment that will help the recovery effort of the gulf coast, particularly as it relates to Louisiana, Mississippi, and Alabama.

If we do not get this amendment on this bill or the next bill—I prefer it on this bill—we will literally shut down 7,000 units that are under construction today of low-income and moderate housing along the gulf coast, from Mobile to Waveland to Gulfport to New Orleans, all the way over to Cameron Parish, the entire gulf coast. Many people witnessed the terrible catastrophe that happened in our State just 4½ years ago, and we will be marking the fifth anniversary of Katrina. The wounds seem a little bit fresh watching the scenes from Haiti and Chile. The situation in Haiti is much more disastrous in many ways than what happened in the gulf coast, but we most certainly went through our own horrors. Five years seems like a long time, but when you are digging out of rubble such as we see happening right now and when the flood waters don't recede, in some places for 3 months, and people can't return to their neighborhoods for 9 months, you can understand why it has taken us a little time to rebuild some of this housing. It has taken longer than we ever imagined.

In addition, despite the fact that we have worked as hard and as fast as we can, in the middle of rebuilding some of these multifamily units—we are trying to build them better, smarter, and more energy efficient, in a much better way than they were before for both public housing and low-income housing—the market collapsed, which is not the fault of the people of Louisiana. We don't work on Wall Street. We don't live on Wall Street. We are just busy trying to build our communities back. Wall Street collapses.

As a result, tax credits, which the Congress was so generous to give us some years ago to do this work, if we don't get this extension of a placed-in-service date, the developers—which includes the Catholic Church, nonprofit developers, not just for-profit developers—will lose their opportunity to sell these credits in the marketplace for the financing necessary to finish construction. That is sort of the long and short of it.

I am not here asking for additional credits. We are grateful, those of us from the Gulf Coast States, for what the Congress has already given us. But if this amendment, a 2-year extension, is not attached to this bill, 7,000 units currently under construction and we estimate about 13,000 jobs along the gulf coast will be lost.

So since this is a jobs bill, I thought it would be a good place to put this amendment because it will save 13,000 jobs, building great apartments for rent and purchase that our people need in the gulf coast. That is what the amendment does.

I ask unanimous consent for the amendment to be modified.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The amendment, as modified, is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to extend for 2 years the low-income housing credit rules for buildings in GO Zones, and for other purposes)

On page 268, between lines 11 and 12, insert the following:

SEC. _____. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

Section 1400N(c)(5) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

SEC. _____. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 are each amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 are each amended by striking ''$250,000'' and inserting ''$1,500,000''.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) is amended by striking ''$15'' and inserting ''$30''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 are each amended by striking ''$75,000'' and inserting ''$250,000''.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) is amended by striking ''$30'' and inserting ''$60''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721are each amended by striking ''$150,000'' and inserting ''$500,000''.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Paragraph (1) of section 6721(d) is amended—

(1) by striking ''$100,000'' in subparagraph (A) and inserting ''$500,000'',

(2) by striking ''$25,000'' in subparagraph (B) and inserting ''$75,000'', and

(3) by striking ''$50,000'' in subparagraph (C) and inserting ''$200,000''.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) is amended by striking ''$100'' and inserting ''$250''.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 is amended by adding at the end the following new subsection:

''(f) ADJUSTMENT FOR INFLATION.—

''(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount adjusted under paragraph (1)—

''(A) is not less than $75,000 and is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500, and

''(B) is not described in subparagraph (A) and is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

Ms. LANDRIEU. At the appropriate time, I will call up the amendment for a vote and further debate. I wished to make sure we have the modification in. I have now suggested a pay-for for it. I again thank Members for being helpful to us. We thought actually these units would be finished by now. Of course, the people trying to move into them want them to be finished. But between us trying to get ourselves organized after the catastrophe and then with the market collapsing, we need additional time. That is all this amendment does.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3368 TO AMENDMENT NO. 3336

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may call up amendment No. 3368.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 3368 to amendment No. 3336.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the rescission of unused transportation earmarks and to establish a general reporting requirement for any unused earmarks)

At the appropriate place, insert the following:

TITLE _____—RESCISSION OF UNUSED TRANSPORTATION EARMARKS AND GENERAL REPORTING REQUIREMENT

SEC. _01. DEFINITION.

In this title, the term ''earmark'' means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark, as defined for purposes of Rule XXI of the Rules of the House of Representatives.

SEC. _02. RESCISSION.

Any appropriated earmark provided for the Department of Transportation with more than 90 percent of the appropriated amount remaining available for obligation at the end of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year.

SEC. _03. AGENCY WIDE IDENTIFICATION AND REPORTS.

(a) AGENCY IDENTIFICATION.—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(b) ANNUAL REPORT.—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(1) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance, the year when the funding expires, if applicable, and recommendations and justifications for whether each earmark should be rescinded or retained in the next fiscal year;

(2) the number of rescissions resulting from this title and the annual savings resulting from this title for the previous fiscal year; and

(3) a listing and accounting for earmarks provided for the Department of Transportation scheduled to be rescinded at the end of the current fiscal year.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that Senator COBURN be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I have offered an amendment to take a small step toward addressing the growing problem of the Federal deficits. The underlying bill we are considering would extend many vitally important programs, including various tax provisions, unemployment benefits, COBRA health benefits, and other provisions to help the millions of Americans who have lost jobs or who are struggling in this economy to get back on their feet again. While I support these provisions, I am disappointed the bill is not fully paid for. My amendment will not cover the whole cost of the bill, but it will make a small dent as we try to get our financial house in order and make the tough choices to avoid hamstringing future generations with this debt.

There is no single or easy solution to the massive deficits we face, but one thing we should be doing is taking a hard look at the Federal budget for wasteful or unnecessary spending. Hard-working American families have to make these kinds of decisions every week to make ends meet, whether it is skipping a trip to the movies or clipping coupons or paying attention to the sale ads. But in the end, by cobbling together a series of small actions, they try to get their budget back in line. I think we in Congress should be doing the same thing.

My proposal to rescind old, unwanted transportation earmarks would bring down our deficit by a modest sum by Washington, DC, standards—around $600 million and perhaps a few billion dollars over time. But this is real money back in Wisconsin and one step on a path that is going to have to include many additional cuts.

I have put together a number of proposals for where we should begin tightening our belt, including the one for this amendment in a piece of legislation I introduced last fall called the Control Spending Now Act. The combined bill would cut the Federal deficit by about $½ trillion over 10 years.

This amendment that is before us now would build off a proposal put forward in President George W. Bush's fiscal year 2009 budget proposal to rescind $226 million in highway earmarks that were over a decade old and still had less than 10 percent of the funding utilized. Transportation Weekly did an analysis of these earmarks at the time. They found that over 60 percent of the funding—$389 million—was in 152 earmarks that had no funding spent or obligated from them. These clearly are either unwanted or a low priority for the designated recipients. This is nothing against transportation funding either. I fully realize the need for investment in our crumbling infrastructure and its potential for job creation in hard-hit segments such as construction, but having hundreds of millions of dollars sit untouched in an account at the Department of Transportation does nothing to address our infrastructure needs and it does nothing to put people back to work.

So what I have done is build on President Bush's concept a little. My amendment expands this rescission to all transportation earmarks that are over 10 years old with unobligated balances of more than 90 percent. At a hearing recently before the Budget Committee, I asked Transportation Secretary Ray LaHood about these unwanted and unspent earmarks and whether he supported my proposal to rescind them. Secretary LaHood responded:

The answer is, yes, we are supportive of your proposal, and we have identified significant millions of dollars' worth of earmarks.

It is unclear exactly how many hundreds of millions or even billions of dollars could be saved by this proposal being expanded to other transportation earmarks in addition to the previous estimate of $626 million that would be rescinded from unwanted highway earmarks in the first year. This proposal would also be permanent so there would likely be additional savings as the unwanted earmarks in the most recent highway bill reach their 10-year anniversary.

I think this is a very modest proposal, going after just the lowest of the low-hanging fruit, and I would support going even further to make it cover all Federal agencies. But with the uncertainty about how many of these unwanted and unspent earmarks there might be across the whole Federal Government, my amendment simply requires an annual report by the OMB to collect information from each agency and include recommendations on whether these other unobligated earmarks should also be rescinded.

So as my colleagues can see, there is bipartisan support from the last two

administrations for this proposal, and there is bipartisan support in this Senate for this amendment. This shouldn't be a hard decision, and I hope to have more strong bipartisan support in the Senate. If we can't agree to take old earmarks that no one wants and use the money to pay down the deficit, then how are we ever going to get our fiscal house in order?

I yield the floor, and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3391 TO AMENDMENT NO. 3336

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment so that I may call up my amendment which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. BROWN] proposes an amendment numbered 3391 to amendment No. 3336.

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for a 6-month employee payroll tax rate cut, and for other purposes)

At the end of title I, add the following:

SEC. 103. EMPLOYEE PAYROLL TAX RATE CUT.

(a) IN GENERAL.—For the 6-calendar-month period beginning after the date which is 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall reduce the rate of tax under section 3101(a) of the Internal Revenue Code of 1986 and 50 percent of the rate of tax under section 1401(a) of such Code by such percentage such that the resulting reduction in revenues to the Federal Old-Age and Survivors Insurance Trust Fund is equal to 90 percent of the amounts appropriated or made available and remaining unobligated under division A of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111–5) (other than under title X of such division A) as of the date of the enactment of this Act.

(b) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendment not been enacted.

(c) RESCISSION OF CERTAIN STIMULUS FUNDS.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116), from the amounts appropriated or made available under division A of such Act (other than under title X of such division A), there is rescinded 100 percent of the remaining unobligated amounts as of the date of the enactment of this Act. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

(d) EMERGENCY DESIGNATION.—This section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)) and section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. In the House of Representatives, this section is designated as an emergency for purposes of pay-as-you-go principles.

Mr. BROWN of Massachusetts. Mr. President, I intend to come back tomorrow and explain the pending amendment and allow my colleagues an opportunity to review the amendment.

I yield the floor.

Mr. BURR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3389 TO AMENDMENT NO. 3336

Mr. BURR. Mr. President, I ask unanimous consent to set the pending amendment aside and to call up amendment No. 3389.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. BURR] proposes an amendment numbered 3389 to amendment No. 3336.

Mr. BURR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide Federal reimbursement to State and local governments for a limited sales, use, and retailers' occupation tax holiday, and to offset the cost of such reimbursements)

On page 268, between lines 11 and 12, insert the following:

SEC. ___. STATE AND LOCAL SALES TAX RELIEF FOR CONSUMERS.

(a) IN GENERAL.—The Secretary shall reimburse each State for 75 percent of the amount of State and local sales tax payable and not collected during the sales tax holiday period.

(b) DETERMINATION AND TIMING OF REIMBURSEMENT.—

(1) PREDETERMINED AMOUNT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall pay to each State an amount equal to the sum of—

(A)(i) 75 percent of the amount of State and local sales tax payable and collected in such State during the same period in 2009 as the sales tax holiday period, times

(ii) an acceleration factor equal to 1.73, plus

(B) an amount equal to 1 percent of the amount determined under subparagraph (A) for State administrative costs.

(2) RECONCILIATION AMOUNT.—Not later than July 1, 2010, the Secretary shall pay to each electing State under subsection (c)(2) an amount equal to the excess (if any) of—

(A) 75 percent of the amount of State and local sales tax payable and not collected in such State during the sales tax holiday period, over

(B) the amount determined under paragraph (1)(A) and paid to such State.

(c) REQUIREMENT FOR REIMBURSEMENT.—The Secretary may not pay a reimbursement under this section unless—

(1) the chief executive officer of the State informs the Secretary, not later than the first day of the sales tax holiday period of the intention of the State to qualify for such reimbursement by not collecting sales tax payable during the sales tax holiday period,

(2) in the case of a State which elects to receive the reimbursement of a reconciliation amount under subsection (b)(2)—

(A) the chief executive officer of the State informs the Secretary and the Director of Management and Budget and the retail sellers of tangible property in such State, not later than the first day of the sales tax holiday period of the intention of the State to make such an election,

(B) the chief executive officer of the State informs the retail sellers of tangible property in such State, not later than the first day of the sales tax holiday period of the intention of the State to make such an election and the additional information (if any) that will be required as an addendum to the standard reports required of such retail sellers with respect to the reporting periods including the sales tax holiday period,

(C) the chief executive officer reports to the Secretary and the Director of Management and Budget, not later than June 1, 2010, the amount determined under subsection (b)(2) in a manner specified by the Secretary,

(D) if amount determined under subsection (b)(1)(A) and paid to such State exceeds the amount determined under subsection (b)(2)(A), the chief executive officer agrees to remit to the Secretary such excess not later than July 1, 2010, and

(E) the chief executive officer of the State certifies that such State—

(i) in the case of any retail seller unable to identify and report sales which would otherwise be taxable during the sales tax holiday period, shall treat the reporting by such seller of sales revenue during such period, multiplied by the ratio of taxable sales to total sales for the same period in 2010 as the sales tax holiday period, as a good faith effort to comply with the requirements under subparagraph (B), and

(ii) shall not treat any such retail seller of tangible property who has made such a good faith effort liable for any error made as a result of such effort to comply unless it is shown that the retailer acted recklessly or fraudulently,

(3) in the case of any home rule State, the chief executive officer of such State certifies that all local governments that impose sales taxes in such State agree to provide a sales tax holiday during the sales tax holiday period,

(4) the chief executive officer of the State agrees to pay each local government's share of the reimbursement (as determined under subsection (d)) not later than 20 days after receipt of such reimbursement, and

(5) in the case of not more than 20 percent of the States which elect to receive the reimbursement of a reconciliation amount under

subsection (b)(2), the Director of Management and Budget certifies the amount of the reimbursement required under subsection (b)(2) based on the reports by the chief executive officers of such States under paragraph (2)(C).

(d) DETERMINATION OF REIMBURSEMENT OF LOCAL SALES TAXES.—For purposes of subsection (c)(4), a local government's share of the reimbursement to a State under this section shall be based on the ratio of the local sales tax to the State sales tax for such State for the same time period taken into account in determining such reimbursement, based on data published by the Bureau of the Census.

(e) DEFINITIONS.—For purposes of this section—

(1) HOME RULE STATE.—The term ''home rule State'' means a State that does not control imposition and administration of local taxes.

(2) LOCAL.—The term ''local'' means a city, county, or other subordinate revenue or taxing authority within a State.

(3) SALES TAX.—The term ''sales tax'' means—

(A) a tax imposed on or measured by general retail sales of taxable tangible property, or services performed incidental to the sale of taxable tangible property, that is—

(i) calculated as a percentage of the price, gross receipts, or gross proceeds, and

(ii) can or is required to be directly collected by retail sellers from purchasers of such property,

(B) a use tax, or

(C) the Illinois Retailers' Occupation Tax, as defined under the law of the State of Illinois, but excludes any tax payable with respect to food and beverages sold for immediate consumption on the premises, beverages containing alcohol, and tobacco products.

(4) SALES TAX HOLIDAY PERIOD.—The term ''sales tax holiday period'' means the period—

(A) beginning on the first Friday which is 30 days after the date of the enactment of this Act, and

(B) ending on the date which is 10 days after the date described in subparagraph (A).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) STATE.—The term ''State'' means any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico.

(7) USE TAX.—The term ''use tax'' means a tax imposed on the storage, use, or other consumption of tangible property that is not subject to sales tax.

SEC. _____. RESCISSION OF DISCRETIONARY AMOUNTS APPROPRIATED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

(a) IN GENERAL.—All discretionary amounts made available by the American Recovery and Reinvestment Act of 2009 (123 Stat. 115; Public Law No: 111–5) that are unobligated on the date of the enactment of this Act are hereby rescinded.

(b) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) administer the reduction specified in subsection (a); and

(2) submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to subsection (a).

Mr. BURR. Mr. President, I am going to set this amendment aside and talk on it later.

I ask unanimous consent to set the pending amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3390 TO AMENDMENT NO. 3336

(Purpose: To provide an emergency benefit of $250 to seniors, veterans, and persons with disabilities in 2010 to compensate for the lack of cost-of-living adjustment for such year, to provide an offset using unobligated stimulus funds, and for other purposes)

Mr. BURR. Mr. President, I call up amendment No. 3390.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. BURR] proposes an amendment numbered 3390 to amendment No. 3336.

Mr. BURR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. BURR. Mr. President, there is an amendment pending by Senator SANDERS to offer a $250 stipend to seniors, veterans, and those disabled to replace the lack of a cost-of-living increase, a COLA increase. As we are all aware, the formulas that drive the cost-of-living increase are predominantly affected by inflation. With the lack of inflation, seniors, veterans, and the disabled did not receive a cost-of-living increase for this year.

Senator SANDERS' amendment is very clear. He wants to provide a $250 stipend. That has broad-based support within the Senate body, but I think it is responsible to say that to do this, we should pay for it. To do this, we should not print more money, borrow that money just to provide a $250 check. I think most of our Nation's seniors, veterans, and disabled would agree with that statement.

To ignore the fact that we are not paying for it would be to say that we are going to pass this stipend on to our children and our grandchildren; that we are going to take the money we are going to borrow and the debt and the obligation for that debt and we are going to pass it generationally down. As a parent of a 25-year-old and a 24-year-old, I do not think they deserve it. At some point, I hope they are both going to have children, and I do not think their children deserve for me to shove this down. And I think most Members of the Senate probably agree that it is time we start paying for it.

How does this get back? Senator SANDERS makes this an emergency declaration to spend. We have a lot of priorities, and there is probably not a priority that does not deserve us to pay for it, to find somewhere where we have prioritized and decided, here is how we are going to pay for it, versus to continue to go out and borrow.

Let me remind my colleagues, we have the largest debt we have ever had. It continues to climb every day. Of every dollar we spend, we borrow 43 cents. Over the next 10 years, right now our country is obligated at $5 trillion in interest payments. That is trillion with a ''t.'' I am reminded that the most popular bumper sticker in Washington today is ''Don't tell Congress what comes after a trillion.'' I am not sure we know yet. At the rate we are going, we are going to find out. Do you know who is going to be saddled with that debt? It is going to be our children and our grandchildren. Nobody wants to leave our seniors, our veterans, and the disabled without the means they need to live. But I think even the people who are the recipients of these checks would look at us and say: Pay for it; don't put it on my grandchildren or my great grandchildren.

My amendment No. 3390 is very simple. It says this: Pay for the $250 stipend and use the unobligated stimulus money, the money we have already appropriated. We cannot borrow it twice; we can only borrow it once. Use the unobligated stimulus money, a little over $14 billion—I think it is about $14.4 billion—to pay for the stipend. Let's do the COLA, but let's, in fact, make sure that COLA is paid for. The amendment is almost identical to Senator SANDERS' amendment which provides the emergency benefit; it just pays for it. I don't think there is anything unreasonable on that. The Congressional Budget Office estimates the cost of the Sanders amendment to be at 12.7 billion. I understand the Sanders amendment was modified, so that might be slightly higher. Millions of seniors and veterans are struggling on fixed incomes in this troubled economy. This amendment also provides them the ability to get through those tough times but it also gives them the comfort of looking at their grandchildren and their great-grandchildren and saying: I am not a burden on you because this was paid for. We accounted for it.

Senator BUNNING came to the floor yesterday—I think we were talking about $10 billion yesterday—and he said: How can a country this great not find a way to pay for $10 billion? Well, we didn't. And as that makes its way through, we are going to borrow that $10 billion, and that $10 billion is going to equate to $10 billion of interest payments over the next 10 years. Let me say that again. What we did yesterday is going to compute to $10 billion worth of interest payments over the next 10 years. No payment down of principal, just an obligation of interest on the debt.

Maybe some are smart enough here to tell me exactly what the interest rates are going to be in the open marketplace as we finance our debt 3 years, 5 years, 10 years down the road. I don't think it is going to be where it is today. There is every indication it is going higher. So when I state the number $5 trillion over the next 10 years, you have to understand that is a static interest rate that we have applied to it. It is 3.45, is the projection of the Congressional Budget Office. And they

have said if it averages at this point, then we are going to, as a nation, owe $5 trillion, if we didn't borrow another dime. Well, not only do we continue to borrow money, but the likelihood is, with the economic conditions and with the fragile nature of the international economy, anybody who buys our debt, anybody who loans us their money is probably going to want to require more than 3.45 percent to take the risk. When countries such as Greece are on the precipice of default, it drives the international market up. It drives the cost of risk up. It will drive the cost of our risk up. What is $5 trillion today—we might not borrow another dime—may end up being next week, next month, next year $10 trillion over 5 years, just with the change in interest rate; just with what it costs us to go out and attract somebody to loan us this money.

I think I have given us a best-case scenario of saying we owe $5 trillion in the next 10 years. Excuse me, $5 trillion plus 10 more billion that we spent last night. The question is: Today, are we going to add another $14 billion to it? That is the decision in front of the Congress. My amendment, No. 3390, provides a $250 stipend. What it does that the Sanders amendment doesn't do, is it pays for it. It assures every recipient—senior, veteran, disabled person—that they are not putting the obligation of their check on their grandchildren and their great grandchildren; that we are taking the responsibility now to fund that.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, the Baucus substitute amendment gives preferential treatment to the extension of three programs: unemployment insurance, COBRA, and what is known as FMAP, which is the Federal Government's aid that it provides to States in the payment of Medicaid. These are laudable things to do, especially in this difficult economic environment. In my home State of Florida, we have nearly 12 percent unemployment. It is the highest anyone can remember, and people are struggling. So these are laudable things to do. The challenge is we are not going to pay for these spending programs. We are going to put them on the backs of our children and grandchildren, as my colleague Senator BURR remarked in his comments.

A couple of weeks ago, we passed a bill here in the Senate called pay-go, and the President just signed this bill into law. I struggled with my vote on pay-go, being a new Member to the Senate and being very concerned about spending, and I thought about voting for it. I thought about voting for it because anything that cuts spending around here, on its face, seems like a good idea to me. But the challenge for me came in learning from some of my colleagues that we don't enforce pay-go. They came to me and said: Look, they are not going to use this as a real measure to control spending. So the bill passed along party lines. And although I didn't support it, I hoped for the best.

But here we are, a couple of weeks after the President signed the pay-go law, and I want to remind the Senate of the comments of Majority Leader REID upon arguing for the passage of the bill. He said: This pay-go—pay-as-you-go rule—we are proposing for the government is the same one Americans use every day in their individual lives; the same ones we teach our children. In order to spend a dollar, we have to have that dollar in our wallet. This law will enforce that commonsense approach.

Sounds reasonable. Sounds like the right thing to do. The President, when he signed the law, said: You have to make hard choices about where to spend and where to save.

Well, here we are, a few weeks later, and unfortunately the prediction of my colleagues that this was not a true enforcement mechanism on spending has come true. Because we are going to designate the extension of these three programs as emergencies. They are emergencies. And if they are emergencies, then we don't have to make them play by the rules. We don't have to cut spending in order to pay for these programs.

Unfortunately, we seem to designate whatever we choose as an emergency and, therefore, we don't have to do the things Leader REID said. We don't have to do the things President Obama said. But families sitting around their tables who have bills to pay can't say: This is an emergency; therefore, I can go and spend money I don't have. Families can't do that. Businesses can't do that. Even State governments, that have to balance their budgets, can't do that.

So what is an emergency? What does the law tell us is proper to designate? Certainly we could think of circumstances that could be an emergency: a situation of war, the financial meltdown we had a couple of years ago. Certainly things such as that would justify being an emergency. Well, the Budget Act of 1974 lays out five different criteria that must be met. First, necessary, essential, or vital; second, sudden, quickly coming into being and not building up over time; three, an urgent pressing and compelling need, requiring immediate attention; four, unforeseen, unpredictable, unanticipated; five, not permanent, temporary in nature.

None of these three extensions is that. We saw these coming. To say this is an emergency is like putting $5 of gasoline in your car and then running out of gasoline and saying: I have an emergency. I couldn't foresee that the $5 wasn't going to get me very far.

Again, these are laudable programs, and the point of order I am about to make is not going to stop this going forward. All it is going to say is that you can't declare something an emergency that is not an emergency, and that we should pay for this by the end of the year. What a commonsense idea to bring to Washington and perhaps to the Congress, that we pay for the programs we decide need funding, that we don't balance it on the backs of our kids and grandkids. As Senator BURR said, we shouldn't borrow $10 billion to spend $10 billion. The spending in Washington is unsustainable.

Let's do these good programs, but let's take a novel approach and let's pay for them.

Mr. President, at this time I wish to make a point of order. Pursuant to section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I raise a point of order against the emergency designation provision contained in the pending substitute amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of the substitute amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. BAUCUS. Mr. President, this is a killer motion the Senator from Florida is making. This amendment kills jobs. This amendment tells people who are currently unemployed: You are not going to get an unemployment check. This amendment tells people who are trying to get health insurance under COBRA: Sorry, no more. This amendment tells doctors who are trying to take care of patients, Medicare patients, that they are not going to get paid what they should be paid.

Let me give a few numbers. Our legislation will help half a million workers who lose their jobs get help under COBRA. That is the health insurance substitute provision for those who have lost their jobs. But the amendment of the Senator from Florida says to those half a million workers who lose their jobs today that they will not get insurance benefits under COBRA.

This amendment also will have the effect, if adopted, of preventing nearly 40 million Medicare beneficiaries and nearly 9 million TRICARE beneficiaries from getting access to their doctors—40 million seniors and about 9 million military personnel under TRICARE.

This amendment will also prevent 400,000 Americans from getting unemployment insurance benefits.

That is just for starters. This motion, if adopted, is not a poison amendment, it is a killer amendment. It kills the bill we are trying to pass in a short period of time. The bill is basically to extend unemployment benefits, to extend the COBRA benefits, and to make sure that people who should get relief under current law are able to maintain that.

This is very similar to the situation we faced because of efforts of the Senator from Kentucky not long ago. We finally resolved that. That was a 30-day extension, and the Senate voted 78 to 19 to continue those benefits under that 30-day provision. The Senator from Kentucky tried to stop it. Finally, the Senator relented and the Senate agreed by a vote of 78 to 19 that we should proceed, and it passed that 30-day continuation.

This is an emergency. We are now in an economic emergency. Unemployment is close to 10 percent. This economy is still in a recession. It is slowly getting better, but if this amendment were to pass—if the amendment offered by the Senator from Florida were to become law—then, frankly, think of the signal that would send to Americans who are now relying upon COBRA benefits and unemployment benefits.

This point of order is a killer, and that is why we need to waive the budget point of order so we can vote for a bill that would come before us later on this evening. I urge Senators, when the vote comes on this waiver, that we waive the budget point of order, because otherwise the provision of the Senator from Florida will send a terrible signal to millions of Americans.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. With all due respect to my colleague, the chairman of the Finance Committee, my point of order will not stop these programs from being extended. What it will do is it will make sure we have to pay for them by the end of the year—a novel idea, that we actually pay for a program. So we will have to look at programs we have now, perhaps, and we cut other programs. Do we not think there is some inefficiency in the administration of the Federal Government? We had a proposal we tried to pass last year to require all the agencies of the Federal Government to cut 5 percent—just 5 percent—when they have had 5, 10, 15 and 20-percent increases year after year after year. Surely governing and leadership is about making decisions.

I voted for the 30-day extension. I want to vote for this bill, but I want to pay for it. I want to make sure we are not borrowing money from the children and grandchildren of Floridians and other Americans to pay for this bill. I want to make sure we are not going to be paying interest to the Chinese to pay for this bill. I think it makes perfectly good sense that we are required, by the end of the year, to find the money to pay for this.

Every dollar we spend is a choice. It is a choice on what we should spend it on. In this body and in this Congress it is a choice, unfortunately, to put a burden upon our children and grandchildren because we spend much more than we have.

I am supportive of extending unemployment compensation. I am supportive of extending COBRA, which is health care. I am supportive of helping out the States with Medicaid payments. All I am asking is let's pay for it. Surely, there is some other program, duplicative in government, inefficiencies we can find to offset this payment.

This is not a killer, this is just responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I hope we can vote on this fairly soon. Basically, let's remind ourselves this is an emergency. We have lost over 7 million jobs in this recession. We are not out of the recession. Unemployment is close to 10 percent. We hope it comes down. This is an emergency and in emergency situations you take emergency action and that is why this legislation is necessary now.

I hope when the economy does recover we have the fortitude to start to live within our means, as we should. Nobody debates that. But we are in a situation now where we have to make sure we extend those benefits and that Medicaid dollars go to the States right now because we are still in an emergency.

I urge, frankly, the motion to waive the point of order. I hope it is successful.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I ask unanimous consent to speak about 5 minutes in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. BURRIS pertaining to the introduction of S. 3065 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

AMENDMENT NO. 3390

Mr. GRASSLEY. Mr. President, in October of 2008, the Social Security Administration, SSA, announced that beneficiaries would receive a 5.8-percent COLA in 2009, the biggest increase since 1982.

This increase was primarily due to record high energy prices. Energy prices have since declined resulting in a 2.1-percent year-over-year decline in the consumer price index, CPI, as determined by the Bureau of Labor Statistics.

Because current law precludes a negative COLA, the SSA announced this past October that there will be no COLA in 2010.

It was also announced that there will be no increase in Medicare Part B premiums for current beneficiaries, except for those with incomes greater than $85,000—single—and $170,000—married.

I understand the concerns about Medicare Part D and Medigap premiums. Unlike Part B premiums—which cannot go up when there is no COLA—these other premiums are not subject to such a restriction.

However, beneficiaries have other options to reduce these premiums. For example, there may be a competing drug plan with lower premiums. I always encourage people to reevaluate their coverage on an annual basis to see if there is another plan that offers the benefits they need at a lower price. Or, there may be a Medicare Advantage plan that covers both prescription drugs and provides coverage similar to a Medigap plan for a lower premium.

As an aside, senior citizens at my town hall meetings frequently ask about congressional COLAs. I remind them that Congress did not receive a COLA this year either. I have consistently voted against automatic COLAs for Congress.

However, I recognize the financial need of many seniors who rely on Social Security. A $250 check would be roughly equal to a 2 percent COLA for the average beneficiary.

Congress enacted the automatic COLA in 1972 in order to provide an objective, nonpartisan way to determine benefit adjustments. The annual COLA has been based on the CPI calculations of the Bureau of Labor Statistics ever since.

Any decision to change, or override, the current process needs to be carefully vetted. History shows Congress has often played partisan politics with Social Security without regard to the solvency of the program or the burden placed on future taxpayers.

I understand the desire to send $250 checks to current Social Security beneficiaries to compensate for the lack of a COLA. But, we are also facing an annual budget deficit in excess of $1 trillion for the second year in a row.

We cannot continue to add to our deficit without any regard to the consequences.

The Sanders amendment fails to include an acceptable way of offsetting the $13 billion cost of this proposal.

The amendment offered by Senator BURR would offset the cost by reducing unspent stimulus funds.

Last year, CBO scored the stimulus bill at $787 billion. But earlier this year CBO revised its estimate to $862 billion.

CBO estimates that we have already spent $200 billion in 2009 and we will spend $400 billion in 2010. That leaves more than $250 billion for future years.

This amendment would simply reduce the unspent balance by $13 billion.

It has been suggested by some on the other side of the aisle that we should not use stimulus money to pay for other things.

They insist the stimulus money is needed to create jobs. Given the fact we have lost nearly 4 million private sector jobs since last year, I doubt the stimulus money has created any net new jobs. But for those who choose to believe government spending can create more jobs than it destroys, CBO says payments that can be made quickly are more effective than those that take a long time.

By that standard, using less effective stimulus dollars to pay for more effective stimulus dollars is the best alternative.

I urge my colleagues to support this amendment which is fully paid for, and reject the amendment of my colleague from Vermont that needlessly increases the deficit.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I think we will soon be entering an order to vote on several amendments. I would like to point out the theme of these amendments, most of which are offered by the other side, are to cut back Recovery Act dollars, cut back stimulus dollars, take away stimulus dollars.

We know the stimulus program has created millions of jobs. At least that is what CBO says. Certainly, it has created a great number of jobs. When these amendments come up, I would like all Members to know the basic theme of these amendments is to pay for them by cutting stimulus dollars, which I think is a bad idea. We should not be cutting stimulus dollars. We should be maintaining the Recovery Act and stimulus program. We will soon get an order so we can start voting on amendments.

Mr. President, I ask unanimous consent that at 5:55 p.m. this evening the Senate proceed to vote in relation to the following amendments and the Baucus motion to waive in the order listed, that prior to each vote in the sequence, there be 2 minutes of debate divided and controlled in the usual form, and after each vote in the sequence the remaining votes be 10 minutes' duration.

I might say the 2 minutes of debate, equally divided and controlled, be amended to 4 minutes of debate, equally divided and controlled, with respect to the two Bunning amendments. Those two Bunning amendments are Nos. 3360 and 3361.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, just to make it clear what the amendments are, it is Burr amendment No. 3390; Sanders amendment No. 3353, as modified; Bunning amendment No. 3360; Bunning amendment No. 3361, and Baucus motion to waive the Budget Act.

I thank the Chair.

For the information of all Senators, the first vote will be on the Burr amendment, which is similar to the Sanders amendment. One big difference, that Burr amendment takes stimulus dollars to pay for the Sanders amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

There are 2 minutes, equally divided, prior to a vote on the Burr amendment.

The Senator from North Carolina.

Mr. BURR. Mr. President, I will take my minute to simply say my amendment does exactly what the Sanders amendment does. It provides a $250 stipend to seniors, veterans, the disabled who did not receive a cost-of-living increase because the inflation formula did not provide one this year. The difference between mine and Sanders is novel—I actually pay for the $14 billion we are paying out to seniors, veterans, and the disabled. I am saying to every recipient of a check, we are not going to bill this to your children and grandchildren, we are going to pay for it now with money that is unobligated but already appropriated by the Congress. I think this is a reasonable approach. I think every Member should support it. We should be pleased we are doing a stipend to seniors, but we should sleep well tonight because we paid for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senate voted yesterday, 53 to 43, against the Bunning amendment to cut back Recovery Act funds for the 30-day extension bill. Earlier today, the Senate voted 61 to 38 against the Thune amendment to cut back Recovery Act funds to pay for tax cuts, and now we have the pending Burr amendment to cut back Recovery Act funds. In all three cases, we turned away those efforts to cut back Recovery Act/stimulus funds. I think we should do the same here, so people can get their benefits—excuse me, so the Sanders amendment gets passed.

Mr. President, I raise a point of order against the emergency provisions in the amendment.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. I move to waive the appropriate provisions in the Budget Act and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Alabama (Mr. SESSIONS).

The PRESIDING OFFICER (Mr. BURRIS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—38

Barrasso	Collins	Klobuchar
Bayh	Corker	LeMieux
Bennet	Cornyn	Lincoln
Bennett	Crapo	Lugar
Brown (MA)	DeMint	McCain
Brownback	Enzi	McCaskill
Bunning	Graham	McConnell
Burr	Grassley	Murkowski
Chambliss	Hatch	Nelson (NE)
Cochran	Isakson	Nelson (FL)
Pryor	Shelby	Vitter
Risch	Snowe	Webb
Roberts	Thune	

NAYS—59

Akaka	Feinstein	Merkley
Alexander	Franken	Mikulski
Baucus	Gillibrand	Murray
Begich	Gregg	Reed
Bingaman	Hagan	Reid
Boxer	Harkin	Rockefeller
Brown (OH)	Inhofe	Sanders
Burris	Inouye	Schumer
Byrd	Johanns	Shaheen
Cantwell	Johnson	Specter
Cardin	Kaufman	Stabenow
Carper	Kerry	Tester
Casey	Kohl	Udall (CO)
Coburn	Kyl	Udall (NM)
Conrad	Landrieu	Voinovich
Dodd	Lautenberg	Warner
Dorgan	Leahy	Whitehouse
Durbin	Levin	Wicker
Ensign	Lieberman	Wyden
Feingold	Menendez	

NOT VOTING—3

Bond	Hutchison	Sessions

The PRESIDING OFFICER. On this vote, the yeas are 38, the nays are 59. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion rejected.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I raise a point of order that the pending Burr amendment violates the pay-as-you-go provisions, of S. Con. Res. 21, 110th Congress, the concurrent resolution on the budget for fiscal year 2009.

The PRESIDING OFFICER. The point of order is sustained.

The amendment falls.

AMENDMENT NO. 3353

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. What is the regular order?

The PRESIDING OFFICER. There is 2 minutes evenly divided with respect to the Sanders amendment No. 3353, as modified.

Who yields time?

The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, for the first time in 36 years, seniors and disabled veterans and persons with disabilities will not be receiving a cost-of-living adjustment, a COLA on their benefits. The argument for that is that they are not seeing inflationary costs. Go back home and talk to seniors, talk to disabled veterans. They will tell you they are paying sky-high costs for prescription drugs and health care. This amendment is supported by AARP, the American Legion, the VFW, the National Committee to Preserve Social Security, and a wide number of veterans organizations and senior citizens organizations that know it is wrong to turn our backs on seniors in this moment of economic difficulty.

Mr. LEAHY. Mr. President, Social Security represents a strong commitment to our nation's seniors. Ever since Ida May Fuller of Vermont received the first Social Security check issued, vulnerable seniors have had a safety-net to fall back on in retirement and to supplement individual retirement savings or pensions. Nearly 70

percent of beneficiaries depend on Social Security for at least half of their income, and Social Security is the sole source of income for 15 percent of recipients.

Social Security is an immensely important program, one that has helped millions of Americans stay out of poverty once entering retirement. While facing the rising costs of health care, food and fuel, Social Security has been a successful safety net for more than 70 years. However, for the first time in its history, this year Social Security recipients will not receive a cost-of living adjustment, COLA, due to the economic deflation, rather than inflation, our economy experienced this past year. Since the COLA will not go into effect this year, Congress needs to act to ensure those who need it most will receive this essential benefit.

That is why I was proud to join Senator SANDERS in cosponsoring the Emergency Senior Citizens Relief Act, which would provide all Social Security recipients, railroad retirees, SSI beneficiaries and adults receiving veterans' benefits with a one-time additional check for $250 in 2010, similar to the payment beneficiaries received as a part of the American Recovery and Reinvestment Act passed last year. Today, we have the opportunity to include this important emergency relief in legislation aimed at helping all struggling Americans. This amendment represents our continued commitment to providing a safety net to our nation's seniors and those with disabilities in this uncertain economy.

I urge my fellow Senators to support the Sanders amendment.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this amendment would add billions of dollars to the deficit which would have to be paid for by our children. Of course, the reason the COLA is not being given this year is because the law says it should not be. Therefore, I raise a point of order that the Sanders amendment violates section 403(a) of the budget resolution.

Mr. SANDERS. Pursuant to section 904 of the Congressional Budget Act of 1964 and section 4(g)(3) of the statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 47, nays 50, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—47

Akaka	Gillibrand	Nelson (FL)
Baucus	Hagan	Pryor
Begich	Harkin	Reed
Bingaman	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown (OH)	Kaufman	Sanders
Burris	Kerry	Schumer
Byrd	Klobuchar	Snowe
Cantwell	Kohl	Specter
Cardin	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Lincoln	Udall (NM)
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Franken	Murray	

NAYS—50

Alexander	DeMint	McCain
Barrasso	Ensign	McCaskill
Bayh	Enzi	McConnell
Bennet	Feingold	Murkowski
Bennett	Feinstein	Nelson (NE)
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shaheen
Carper	Inhofe	Shelby
Chambliss	Johanns	Thune
Coburn	Kyl	Udall (CO)
Cochran	Landrieu	Vitter
Collins	LeMieux	Voinovich
Corker	Levin	Warner
Cornyn	Lieberman	Wicker
Crapo	Lugar	

NOT VOTING—3

Bond	Hutchison	Isakson

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained. The emergency designation is stricken.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I make a point of order that the amendment violates section 201 of S. Con. Res. 21 of the 110th Congress.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

AMENDMENT NO. 3360

The PRESIDING OFFICER. There will now be 4 minutes equally divided before a vote in relation to the Bunning amendment No. 3360.

The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, it is my understanding that there are 4 minutes equally divided on these two amendments; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUNNING. Thank you, Mr. President.

Amendment No. 3360 is simple. It contains all of the extensions in the Baucus substitute, but rather than adding over $100 billion in cost to the deficit and debt, which the Baucus substitute does, my amendment pays for the spending in this bill by rescinding unspent stimulus funding.

My colleagues on the other side of the aisle have stated repeatedly that CBO considers money spent on extending unemployment benefits to be one of the best kinds of stimulus because the people who receive it are likely to immediately spend it. So let's redirect money from an ineffective stimulus bill in which some of the funding won't be spent until fiscal year 2013 or beyond. Let's stimulate the economy now and prevent a massive increase in the debt at the same time.

I am having a hard time understanding why some Senators believe stimulus funding is so sacred. Was the stimulus brought down from the mountaintop by Moses? If that is the case, why did the majority raid stimulus money to pay for an extension of cash for clunkers?

I will be the first to admit that neither side of the aisle has clean hands when it comes to out-of-control spending. We can't control what was done in the past, but we can control what happens today. It is time to take a stand—a stand for our children and grandchildren so they won't have to pay back trillions more in debt.

I am tired of China holding the mortgage on our country. I am tired of the massive national debt that will be doubled in 5 years and tripled in 10. It is hard for me to look my grandchildren in the eye when I know this generation is handing them a country where they won't have the same opportunities to succeed and prosper as I did. It has to stop.

I urge my colleagues to support my amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUNNING. Mr. President, our spending has to stop.

I urge my colleagues to support my amendment, and I yield back.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this Bunning amendment is the fourth attempt in 2 days to pay for emergency safety net programs by cutting back stimulus spending, by cutting back from the Recovery Act. This is the same amendment. We have voted on this basic topic four times.

Yesterday the Senate voted 53 to 43 against the Bunning amendment to cut back Recovery Act funds for the 30-day extension bill. Earlier today the Senate voted 61 to 38 against the Thune amendment to cut back Recovery Act funds, and just a few minutes ago the Senate voted down the Burr amendment. Now we have the Bunning amendment to cut back Recovery Act funds again to pay for the pending bill.

CBO does say the Recovery Act has added jobs. Between 1 million and 2.1 million jobs have been added to our economy because of the Recovery Act. Just to repeat, the CBO says the Recovery Act added between 1 million and 2 million to the number of Americans employed in the fourth quarter of last year. CBO also says the Recovery Act increased the number of full-time equivalent jobs by between 1.4 and 3 million jobs. The Recovery Act is creating jobs, so I think the last thing we should do is scale back something that

is working. If it is working, don't change it. If it is working, let's continue with it.

I move to table the Bunning amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER (Mr. BEGICH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—56

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (FL)
Begich	Hagan	Pryor
Bennet	Harkin	Reed
Bingaman	Inouye	Reid
Boxer	Johnson	Rockefeller
Brown (OH)	Kaufman	Sanders
Burris	Kerry	Schumer
Byrd	Klobuchar	Shaheen
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Dodd	Lieberman	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden
Feinstein	Mikulski	

NAYS—41

Alexander	Crapo	McCain
Barrasso	DeMint	McConnell
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Chambliss	Inhofe	Snowe
Coburn	Johanns	Thune
Cochran	Kyl	Vitter
Collins	LeMieux	Voinovich
Corker	Lincoln	Wicker
Cornyn	Lugar	

NOT VOTING—3

Bond	Hutchison	Isakson

The motion was agreed to.

AMENDMENT NO. 3361

The PRESIDING OFFICER. There will now be 4 minutes equally divided prior to a vote in relation to Bunning amendment No. 3361.

The Senator from Kentucky.

Mr. BUNNING. Mr. President, let me briefly describe my amendment No. 3361. Like other amendments, this amendment contains all the extensions in the Baucus substitute, and it also completely pays for that spending. But it provides a different alternative for paying for it: eliminating wasteful and duplicative government programs.

Many of these programs are the ones President Obama has recommended terminating, and others have been highlighted by the CBO and the Congressional Research Service as wasteful.

I thank Senator COBURN publicly for the good work he has done compiling this list of programs.

We voted on a similar spending reduction when the Senate passed a record $1.9 trillion increase in the debt limit to $14.3 trillion. I hope we have a different outcome today. I hope my colleagues will not choose bloated bureaucracy over our children and grandchildren. They will face over $100 billion more in debt and compounding interest on the debt if we do not pay for this bill. Enough is enough.

If we cannot find the money to pay for programs, we ought to make the hard choices to reduce the deficit and debt.

I hope my colleagues will make the right choice today and support my amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Hawaii.

Mr. INOUYE. Mr. President, we find ourselves debating an amendment that we voted down just last month. Proponents make the rescissions sound like good policy when you listen to them. But Members need to understand this amendment causes harm to our national and international security and to our economy.

First, this amendment proposes rescissions throughout the agencies that are completely random and based on subjective assumptions.

Second, rescinding discretionary funds that have been available for more than 2 years will jeopardize our national defense, our homeland security, and the well-being of our citizens.

This is simply irresponsible governing. For example, a ship is not built in a year or 2 years. A hospital is not built in a year. And if they are not built in a year, these funds are rescinded.

This amendment proposes to cut billions in funding the Congress voted on and agreed to provide just months ago. This amendment is not based on careful review and, if adopted, would have serious consequences on our procurement process and many critical programs for fiscal year 2010.

The majority of the Members acted responsibly in January and rejected the same approach. I urge my colleagues to do the same today.

Accordingly, Mr. President, I move to table the Bunning amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 61, nays 36, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—61

Akaka	Franken	Nelson (FL)
Baucus	Gillibrand	Pryor
Bayh	Hagan	Reed
Begich	Harkin	Reid
Bennet	Inouye	Rockefeller
Bingaman	Johnson	Sanders
Boxer	Kaufman	Schumer
Brown (OH)	Kerry	Shaheen
Burris	Klobuchar	Snowe
Byrd	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Collins	Lieberman	Voinovich
Conrad	Lincoln	Warner
Dodd	Menendez	Webb
Dorgan	Merkley	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murray	
Feinstein	Nelson (NE)	

NAYS—36

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Bennett	Ensign	McCaskill
Brown (MA)	Enzi	McConnell
Brownback	Graham	Murkowski
Bunning	Grassley	Risch
Burr	Gregg	Roberts
Chambliss	Hatch	Sessions
Coburn	Inhofe	Shelby
Cochran	Johanns	Thune
Corker	Kyl	Vitter
Cornyn	LeMieux	Wicker

NOT VOTING—3

Bond	Hutchison	Isakson

The motion was agreed to.

BAUCUS AMENDMENT NO. 3336

The PRESIDING OFFICER. There is now 2 minutes equally divided prior to a vote on the motion to waive a budget point of order on amendment No. 3336.

Who yields time?

Mr. LEMIEUX. Mr. President, I made this point of order not because I am not in favor of the extension of the unemployment insurance or the COBRA or the money for Medicaid but only that it be paid for.

Just a few weeks ago, this Chamber voted to pass a pay-go bill, which the President signed, and it said we will pay as we go. But we have designated each of these three extensions as emergencies. They are not emergencies under the 1974 Budget Act requiring that it be sudden, quickly coming, unforeseen, or unpredictable. It is not an emergency.

All my point of order does is to say that by the end of the year, we will have to pay for these. It will not stop them from going forward, but it will make sure we have to pay for them, just as the pay-go law requires. These are nonemergencies.

I urge my colleagues to oppose the motion to waive the point of order.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, this is a killer point of order. This point of order would kill the underlying substitute amendment. It would prevent people from getting COBRA benefits. It would prevent people from getting their unemployment checks. It would cause doctors to have their payments

for Medicare patients cut 21 percent. It endangers access for 40 million Medicare beneficiaries. It will kill unemployment insurance benefits for 400,000 Americans. This is a point of order that will, in effect, kill the bill. That is why it is vitally important that Senators vote to waive the point of order so we can pass the bill.

Mr. LEMIEUX addressed the Chair.

The PRESIDING OFFICER. The Senator has no time.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BOND), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 60, nays 37, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—60

Akaka	Feinstein	Mikulski
Baucus	Franken	Murray
Bayh	Gillibrand	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown (OH)	Kaufman	Rockefeller
Burris	Kerry	Sanders
Byrd	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Dodd	Lincoln	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wyden

NAYS—37

Alexander	DeMint	McConnell
Barrasso	Ensign	Murkowski
Bennett	Enzi	Risch
Brown (MA)	Graham	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hatch	Snowe
Chambliss	Inhofe	Thune
Coburn	Johanns	Vitter
Cochran	Kyl	Voinovich
Corker	LeMieux	Wicker
Cornyn	Lugar	
Crapo	McCain	

NOT VOTING—3

Bond	Hutchison	Isakson

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 37. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. BAUCUS. I move to reconsider that vote.

Mrs. LINCOLN. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 3400

Mr. SPECTER. Mr. President I have sought recognition to speak on an amendment I am offering to H.R. 4213, the Tax Extenders Act. This amendment would create a loan guarantee program to maintain the domestic manufacturing capacity for shipbuilding.

With the U.S. economy still struggling to recover, manufacturing investments can have an immediate impact. Manufacturers have lost more than 2 million jobs since the recession began in December of 2007, so there is an opportunity to create a large number of jobs in the industry and to simultaneously revitalize our economy and overall global competitiveness. One area where benefits can immediately be seen is the shipbuilding industry. U.S. shipyards play an important role in supporting our Nation's maritime presence by building and repairing our domestic fleet; and the industry has a significant impact on our national economy by adding billions of dollars to U.S. economic output annually.

These shipbuilding investments are vital to the United States, creating thousands of good-paying jobs across the country. The commercial shipbuilding and ship repair industry is a pillar of the American skilled labor workforce employing nearly 40,000 skilled workers; and the ships produced domestically are an integral part of commerce, international trade, the Navy, Coast Guard, and other military and emergency support. With more than 80 percent of the world's trade carried in whole or part by seaborne transportation, the shipbuilding industry has always had and will continue to have a large industrial base that can support significant job creation and economic growth.

Since the mid 1990s, the industry has been experiencing a period of expansion and renewal. The last expansion was largely marketdriven, backed by long-term customer commitments. Those new assets created much more productive and advanced ships than those they replaced. For example, articulated double-hull tank barge units replaced single-hull product tankers in U.S. coastal trades, and new duel propulsion double-hull crude carriers replaced 30 plus-year-old, steam propulsion single-hull crude carriers. The new crude carriers are larger, faster, more fuel efficient and have a fourfold increase in efficiency over the vessels they replaced.

During the last expansion, the Department of Transportation's Maritime Administration touted the success of Aker Philadelphia Shipyard as a great achievement for the American shipbuilding industry. In 2000, Aker Philadelphia Shipyard was rebuilt on the site of a closed U.S. Navy shipyard. In a few short years, the shipyard became the country's most modern shipbuilding facility employing 1,200 highly skilled professional workers. Since 2003, it has built more than 50 percent of the large commercial vessels produced in the United States. Additionally, the shipyard contributes over $230 million annually to the Philadelphia region, $5 to 7 million per month in local purchases, $8.6 million in annual tax revenues to the city of Philadelphia, and supports over 8,000 jobs throughout the region. Today, Aker Philadelphia Shipyard is one of only two companies producing large commercial vessels in the United States and is a critical asset to the economic viability of the mid-Atlantic region and the domestic shipbuilding industry.

Despite these successes, the economic collapse has stalled the shipbuilding industry by delaying planned ship acquisitions, constraining the credit markets, and making large vessel acquisitions impossible to finance. The long-term customer-driven commitments that drove the last expansion are not a possibility in this economic climate. As a result, this industry, which is a part of the national security industrial base, supports thousands of highly skilled jobs, and is critical to the industrial fabric of our Nation, is struggling to survive.

Since the economic downturn, shipyards such as the Aker Philadelphia Shipyard do not qualify for loan guarantees under existing programs at the Department of Transportation. Without assistance, shipyards will be forced to begin reducing their highly skilled workforce, apprentice programs, and vendor and supplier contracts, at a time when we can least afford additional job losses. If this situation persists and companies like Aker were to cease operations, our Nation's ability to construct commercial vessels would be severely limited and the investments we made to build this state-of-the-art facility would be lost.

At the same time, there is a strong and direct correlation between the performance of shipbuilding and the global economy and trade. Shipbuilding activities rise when global trade and economy grow. Likewise, shipbuilding will be among the first activities to suffer when trade slumps and the economy stutters. This puts shipbuilding at the forefront of one of the world's key and most important economic activities, and a reliable barometer of economic performance.

As the economy recovers, so will the need for ships and our domestic shipbuilding capacity. The Maritime Administration has recognized that construction of vessels for the Nation's marine highway system could result in significant new opportunities for U.S. shipyards. The shipbuilding industry is also developing vessel portfolios that can be leveraged by the government including military vessels to meet the Nation's needs in time of national emergency. For example, the Navy's Littoral Combat Ship and Joint High Speed Vessel programs are based on commercially designed and available vessels. There will also be a need for additional ships as almost $5 billion worth of double-hull construction and conversion work will need to take

place by 2015 to meet the double-hull requirement under the Oil Pollution Act of 1990.

To address the dire situation facing the domestic shipbuilding industry, I am seeking the establishment of a loan guarantee program, where the Secretary of Transportation can issue a loan guarantee for $165 million to qualifying shipyards. Because of loan guarantees leverage funding, the program would require only $15 million to leverage $165 million. This $15 million is offset by reprogramming previously appropriated funds, so there is no additional spending associated with this program.

The Federal assistance would be a short-term financing bridge to enable shipyards to remain in operation and meet the future anticipated demand for domestically produced ships. I encourage my colleagues to help maintain the commercial shipbuilding capacity of the United States through the inclusion of a loan guarantee program.

Mr. BEGICH. Mr. President, I am pleased to have filed an amendment that would give Alaska Native corporations, ANCs, parity for an important tax incentive encouraging the permanent protection of land through the charitable donation of a conservation easement.

America's wildlife, waters, and land are an invaluable part of our Nation's heritage. It is imperative to preserve these natural treasures for future generations. Congress long ago concluded that it was good public policy to encourage the charitable contribution of conservation easements to organizations dedicated to maintaining natural habitats or open spaces help protect the Nation's heritage. A conservation easement creates a legally enforceable land preservation agreement between a willing landowner and another organization. The purpose of a conservation easement is to protect permanently land from certain forms of development or use. The property that is the subject to the easement remains the private property of the landowner. The organization holding the easement must monitor future uses of the land to ensure compliance with the terms of the easement and to enforce the terms if a violation occurs.

In 2006, Congress enhanced the charitable tax deduction for conservation easements in order to encourage such gifts. With the 2006 legislation, Congress temporarily increased the maximum deduction limit for individuals donating qualified conservation easements from 30 percent to 50 percent of the taxpayer's adjusted gross income. Congress also created an exception for qualified farmers or ranchers, which are nonpublicly traded corporations or individuals whose gross income from the trade or business of farming is greater than 50 percent of the taxpayer's gross income. In the case of a qualified farmer or rancher, the limitation increased from 30 percent to 100 percent. The 2008 farm bill extended the temporary rules for 2 additional years to charitable contributions made before December 31, 2009.

Unfortunately, the way the law was crafted has disadvantaged a number of important landowners in my home State. Alaska Native corporations, ANCs, own nearly 90 percent of the private land in Alaska, including some of the most scenic and resource rich. However, although they are very similar to the small communal family farms that are eligible, subsistence-based Alaskan Native communities are ineligible for these important new tax incentives. For thousands of years, Alaska has been home to Native communities, whose rich heritages, languages, and traditions have thrived in the region's unique landscape. Members of Alaska Native communities continue to have a deeply symbiotic relationship with the land even today. Much like their ancestors, many Native Alaskan communities engage in traditional subsistence activities, with nearly 70 percent of their food coming from the land or adjacent waters. For many communities, subsistence is an economic necessity considering both the lack of economic development and the cost and difficulty involved in purchasing food. For example, in Kotzebue a community in northwestern Alaska, milk costs nearly $10 per gallon. In Buckland, a village home to approximately 400 people, a pound of hamburger—when it is actually available—costs $14.

In Alaska, the Native corporations have an important role to be stewards of the land. Their shareholders see themselves as the caretakers of the land and water as their ancestors have for thousands of years. Nonetheless, in Alaska today this means they have to balance the need for resource development and the need to cultivate the land for subsistence activities. The traditional lifestyles of Native Alaskans are under increasing stress from outside influences. Population growth and the pressure to pursue cash-generating activities have increased the desire for substantial development, significantly adding to the ecological stress on already fragile ecosystems. Without permanent protection, their lands could be developed in a manner that would destroy its ability to support the traditional ways and subsistence lifestyles crucial to Alaskan Native communities. Making use of tax incentives available to other Americans will make it easier for Native communities to make the right decisions for their shareholders.

Today, Alaska Native communities are not eligible for the 50 percent deduction available to individuals because they are federally chartered as C corporations under the Alaska Native Claims Settlement Act of 1971, ANCSA. This leaves Alaska Natives without the ability to convert to an eligible entity as other landowners can. In addition, most Alaska Native corporations do not have sufficient gross income from the trade or business of what is considered traditional farming to be eligible for the 100 percent deduction available to qualified farmers or ranchers. This is in spite of the fact that as a group the Alaska Native shareholders of Alaska Native corporations receive far more in subsistence benefits than they receive in income from the Alaska Native Corporation. As a result, Alaska Native corporations do not have the same ability to offset the cost to permanently protect their properties, which contain important wildlife, fish, and other habitats, through donations of qualified conservation easements.

This amendment will allow Alaska Native corporations to protect these important wildlife habitats, many used for subsistence, by providing an enhanced deduction for qualified conservation easements. The amendment modifies section 170(b)(2) of the Internal Revenue Code by creating a new subsection that provides Alaska Native corporations with a deduction for donations of certain qualified conservation easements. In order to be eligible, a qualified charitable conservation contribution must: (1) otherwise qualify under section 170(h)(1); (2) be made by a Native corporation; and (3) be land that was conveyed by ANCSA. The corporations would be limited to 10 percent of their land allotment under ANCSA. Under section 170(b)(2)(iii)(I), ''Native Corporation'' is defined by ANCSA, section 3(m). Under section 170(b)(2)(i), the maximum deduction limit would be set at 100 percent of the taxpayer's adjusted gross income. If the taxpayer has deductions in excess of the applicable percentage-of-income limitation, section 170(b)(2)(ii) would allow the taxpayer to carry-forward the deduction for up to 15 years.

Congress must act to assist Alaska Native communities in permanently protecting their culturally, historically, and ecologically significant land, preserving the communities and their rich traditions in the process. I urge my colleagues to support this important amendment.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING CONGRESSMAN JOHN PATRICK MURTHA

Mr. DODD. Mr. President, I rise in commemoration of the life of John Patrick Murtha.

John Murtha gave nearly six decades to the country he loved. At the age of 20, he left college to join the Marines. As soon as he arrived, the Marines knew they had a gem of a young man on their hands. Routed to Officer Candidate School, he became a leader of

his peers, earning the American Spirit Honor Medal during training.

Although his duty to the Marines ended in 1955, his desire to serve did not. He remained in the Reserves for the next decade, and then volunteered for service in Vietnam.

There, he cemented his reputation as an American hero, earning the Bronze Star, the Vietnamese Cross of Gallantry, and two Purple Hearts.

John's service in the Reserves lasted long into his political career. He didn't retire until 1990, at which time he was awarded the Navy Distinguished Service Medal. But when he returned from Vietnam, he decided that serving the people of the State of Pennsylvania was another way to give back to his country.

He came to Congress roughly a year before I did, the first Democrat to hold that seat since World War II. As long as I have been here, it seems like John has been as much of a fixture in the House Chamber as the desks themselves.

John being a marine, it is probably not surprising that he never stopped fighting to give our troops in the field the resources they needed to do their jobs. He became the chairman of the Defense Appropriations Subcommittee, and was a reliable advocate for our military—and for the people of his district.

His deep passion for our military and his commitment to making sure they had the resources they need reached as far as Connecticut, where we make the finest submarines and aircraft in the world. He knew that the products we make there are critical to the success of our military, and he was always there alongside me, standing up for our defense workforce and the fine products they make.

Many of us will remember with great admiration the courage John showed when he came to the floor in November 2005 to call for an end to a war he had supported. Colleagues on both sides knew that John Murtha would never make a statement like that lightly, and his bold stance played a large role in bringing towards an end that misguided war.

Of course, most Americans never got to know John Murtha's soft side. But his beloved wife Joyce—they were married for 55 years—and his three wonderful children knew him as his colleagues did: as a funny, warm man who loved his job, loved his constituents, and loved his country.

A colleague of his, Congressman BOB BRADY, said, ''There will never be another Jack Murtha.'' And he is right. But we can all carry on his work, impressed by his long record of service and inspired by his deep patriotism and commitment.

I was proud to know John Murtha, and we were all lucky to have him.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS ZACHARY LOVEJOY

Mr. UDALL of New Mexico. Mr. President, in the almost 9 years our Nation has been at war in Afghanistan, thousands of men and women have volunteered for service in defense of our country and the freedoms we hold so dear. These brave men and women sacrifice time with their families, with their wives and husbands and children and friends. They put their own safety on the line to protect the safety of others—to protect the safety of all who call the United States home. Tragically, some of these men and women make the ultimate—sacrifice giving their lives for a country and a people they love.

PFC Zachary Lovejoy was one of those brave soldiers. He was 20 years old when he died February 2, while serving in Zabul Province. His vehicle was struck by a roadside bomb. Private First Class Lovejoy spent the last day of his life doing what he loved. While his life may have ended too soon, his legacy will live on though the people who loved him, and through all of us who owe him our own lives and safety and freedom.

That is why today, I honor Zachary Lovejoy by telling the people of America about a young man who—from early in life—loved his country and dreamed of being a soldier.

Private First Class Lovejoy was born in Indiana but moved to my home State of New Mexico when he was three. He grew up in Albuquerque, the beloved son of Terry and Mike Lovejoy, and brother to Ashley. He was an active teen who loved football and wrestling and camping and skiing. He was an enthusiastic member of his school's ROTC program. Private First Class Lovejoy was a happy-go-lucky kind of guy, whose fun-loving attitude and zest for life was contagious, according to his family.

Even before he graduated from La Cueva High School, Private First Class Lovejoy knew what he wanted to do with his life. He enlisted in the Army during his senior year in high school and began basic training in August 2008. Private First Class Lovejoy was assigned to the 1st Battalion, 508th Parachute Infantry Regiment, 4th Brigade Combat Team, 82nd Airborne Division at Fort Bragg, NC. He received his first deployment to Afghanistan in August 2009.

Private First Class Lovejoy's dedication to our country and its ideals made his family, his community, and everyone who knew him proud. Upon hearing of his death, the people of New Mexico—especially those who knew Lovejoy from high school—were shocked and saddened. They turned out in droves to leave messages for his family in a special memory book. And it is those messages that offer an intimate view of the legacy Private First Class Lovejoy leaves behind.

''You had such a big and amazing heart,'' one person wrote.

''You put an incredible amount of living in your all too short life,'' said another.

''It is an honor to have been a part of a true hero's life,'' wrote a third.

But there was one message that I believe sums up Private First Class Lovejoy's life best: ''Your last name described you so perfectly. You loved all your friends deeply, and spread joy around every place you went.''

To Private First Class Lovejoy's parents and sister and grandparents and fiancée Kaitlin, I offer my deepest sympathies for your loss, and my deepest thanks for your loved one's service to our country. You are forever in our hearts, and we are forever in your debt.

49TH ANNIVERSARY OF THE PEACE CORPS

Mr. CARDIN. Mr. President, today I rise to celebrate service—specifically the dedication of Americans volunteering in the Peace Corps, which this week marks its 49th year of connecting committed volunteers with meaningful work around the globe.

There are a lot of ways to give of ourselves. We donate food. We donate money. We donate time. But the Peace Corps takes community service—global service, really to another level, with volunteers committing 27 months to improve the quality of life in developing countries.

Some projects focus on agriculture; others business. Some improve health, while others emphasize education or the environment, but all programs build a unique international relationship with a spirit of volunteer service at its core.

As Chairman of the U.S. Helsinki Commission, I recently saw one program up close during a congressional delegation I led to Morocco, which is an active Mediterranean partner country in the Organization for Security and Cooperation in Europe.

Meetings with local government officials there were informative. And the briefings from the embassy staff were important. But the time we spent with a Peace Corps volunteer in rural Aitourir was nothing short of inspiring.

The Youth Development Program there run by Peace Corps volunteer Kate Tsunoda, with help from local community volunteers, is giving children from kindergarten through high school critical education, language, and art skills.

Inside a small community center, below a library still in need of dictionaries and elementary schoolbooks, we sat down with a group of young men, some in college, some recently graduated. In a part of the world where unemployment tops 15 percent, these are the people one may see as most susceptible to recruitment by extremists, but not these men. They spoke of dreams that included higher education, better jobs, and a transforming of their local towns.

These men credit the Peace Corps program for empowering them and building their language skills. I credit the Peace Corps for something even greater—forging international understanding, something the Peace Corps

has excelled at now for 49 years in 139 countries through 7,671 volunteers.

On the other side of town, several members of our delegation visited a start-up small business, the brainchild of retiree and Peace Corps volunteer Barbara Eberhart, whose second career is dedicated to empowering the women of Morocco.

The group visited a fabric and embroidery shop developed by a community of Berber women aided by a microcredit loan and Barbara's guidance and unbounded energy. These women, unable to read or write and essentially marginalized in Moroccan society, have formed a cooperative where they create fine embroidered goods and sell them in local markets. Their small business not only provides desperately needed income, but gives these women a stronger sense of themselves, their community and hope for their future and that of their children.

With Peace Corps volunteers coming from all backgrounds, ages and various stages of life, this program is as diverse as our country. The local citizen collaboration inherent in all Peace Corps work helps build enduring relationships between the United States and Peace Corps partner countries.

The Peace Corps invests time and talent in other countries, but it pays dividends back here in the United States as well. Those who are taught or helped by Peace Corps volunteers are likely to have more favorable opinions of the United States. More than that, many of the volunteers themselves are inspired to public service upon their return to this country, some becoming Governors and Members of Congress, including our own colleague and fellow Helsinki Commissioner, Senator DODD of Connecticut.

I left Aitourir thinking Kate was the exemplary Peace Corps volunteer with her welcoming smile, passion for service and genuine love for the Moroccan people. But aware of the success of so many other Peace Corps programs around the world, I know Kate is one of many volunteers—all of whom would have left as great an impression.

The Peace Corps is a program that works. Volunteers year in and year out continue to fulfill the Peace Corps mission of bringing training and education to interested countries and strengthening understanding between Americans and our neighbors in the global community. Congratulations to the Peace Corps for 49 remarkable years. I look forward to its continued success.

RECOGNIZING VISTA ON ITS 45TH ANNIVERSARY

Mr. BEGICH. Mr. President, I wish to speak on a resolution I have cosigned celebrating Volunteers In Service To America, or VISTA, on its 45th anniversary and recognizing its contribution to the fight against poverty.

This resolution will demonstrate the great appreciation this country has for its volunteers, specifically honoring the 45th anniversary of the VISTA Program.

Last year nearly 50 VISTA volunteers provided service in Alaska. These citizens are vital to fighting poverty in our State. The success of this program is evident in the programs it has left behind such as Head Start, job training plans, and credit unions. From its beginnings in 1965 to today, VISTA has dedicated hard work, time, and innovation to lift Americans all over the country out of poverty.

While the mission to fight against poverty has a long history, VISTA has continued to adapt to various localities and challenges to provide new and inspired solutions. Alaska boasts many past and present VISTA volunteers. Many of them have become prominent in Alaska's public and private sectors.

In Alaska, John Shively came to the state with VISTA from New York State with the intention of staying for 1 year. He became involved in local government in Alaska and was involved in the Native lands settlements of early statehood. He later became the commissioner of the Alaska Department of Natural Resources, overseeing more than 80 million acres of State land. He has also been a regent for the University of Alaska, and the Alaska State Chamber of Commerce was proud to award John Shively the title ''Outstanding Alaskan of the Year'' in 2009.

Willie Hensley is an Alaska Native and one of the many successful residents of Alaska. He was a VISTA volunteer and went on to serve in the Alaska State Legislature. He founded the NANA Native Corporation after working hard to ensure equitable settlement of Alaska Native land claims. He is one of the founding members of the Alaska Federation of Natives and is a well known author.

John Shively and Willie Hensley are just two examples of the thousands of VISTA volunteers who have served Alaska and her people. VISTA is a program serving all Americans with the focus on lifting poor Americans out of poverty so their futures can be as bright as the northern lights. VISTA's 45 years of service to the country has made a difference in so many lives, in Alaska and across the Nation.

ADDITIONAL STATEMENTS

TRIBUTE TO SYLVIA PROTHRO HEBERT

● Mr. BENNETT. Mr. President, today I wish to recognize my constituent, Sylvia Prothro Hebert, who has been selected as a 2009 Great Comebacks Recipient for the West Region. This program honors individuals who are living with intestinal diseases or recovering from ostomy surgeries, procedures that reconstruct bowel and bladder function through the use of a specially fitted medical prosthesis. Sylvia is one of over 700,000 Americans, from young children to senior citizens, who have an ostomy. The Great Comeback Awards celebrate the spirit and courage with which a patient embraces life after ostomy surgery. Sylvia and the other Great Comebacks Awardees are Americans who live life to the fullest despite the daily challenges presented by their respective conditions.

At age 9, Sylvia was diagnosed with Crohn's disease. She managed her symptoms with medication, but experienced constant flare-ups during college. At age 21, her intestines were punctured during a colonoscopy and she underwent ostomy surgery. Following this surgery, Sylvia was emotionally distraught; however, she entered counseling and learned how to cope with her stoma. Sylvia has since triumphed over her illness, and achieved her dream of becoming a flight attendant. By her records, she's the first Delta SkyTeam flight attendant with an ileostomy. Additionally, Sylvia joined the Delta Ski and Snowboard team and has earned ribbons in many competitions. Sylvia has also completed two half-marathons and a triathlon.

Today, Sylvia lives in Park City, UT, with her husband Paul and their children, Reese, Garrett, and Renee. I commend Sylvia and the other Great Comebacks Regional Award Recipients. Their personal stories are inspirational and will raise awareness about the great comebacks being made by those living with intestinal diseases or recovering from ostomy surgery.●

REMEMBERING HARRY AGGANIS

● Ms. COLLINS. Mr. President, there is a mid-winter tradition throughout New England and across my home State of Maine—talking baseball. Not just any baseball, of course, but Boston Red Sox baseball.

These discussions, whether they take place around the kitchen wood stove or the office water cooler, range from the team's storied history to the prospects for the upcoming season. The heroes of the past, Yastrzemski, Williams, and so many more, are recalled, as are the more recent stars, such as Schilling and Ramirez.

At times, fans reminisce about a young man who, although his career was cut tragically short, continues to inspire through his athleticism, competitive spirit, and generosity. His name was Aristotle George Agganis. His friends called him Harry. He will always be remembered as the Golden Greek.

Harry Agganis was born in Lynn, MA, in 1929. Although he is known as a baseball player, he first made his mark in football as a star quarterback for Boston University. As a sophomore in 1949 he set a school record for touchdown passes. He left school in 1950 to enlist in the U.S. Marine Corps.

When he completed his service to our nation, he returned to college, setting a school record for passing yards, winning the Bulger Lowe Award as New

England's outstanding football player, and becoming Boston University's first All-American in football. Upon his graduation, he was offered a lucrative contract to play football for the Cleveland Browns but chose instead to sign with the Red Sox so he could remain near his widowed mother.

Here are a few stories that illustrate the character of this young man and the esteem in which he is held.

While still a student in 1953, Harry Agganis was inducted into the new Boston University Hall of Fame. He declined gifts of a car and $4,000 from his classmates and instead asked that the cash equivalent be put toward establishing a scholarship for Greek-American students with financial need.

On June 6, 1954, he homered at Fenway Park and scored the winning run as the Red Sox beat the Detroit Tigers. Following the game, he changed into a cap and gown in the Sox clubhouse, ran down Commonwealth Avenue in time for the graduation ceremonies on the B.U. campus, and received his bachelor's degree in education.

As the 1955 season opened, he was off to a good start, but on June 2 he was hospitalized with pneumonia. He rejoined the team 10 days later but fell ill again. He died on June 27 of a pulmonary embolism. Ten thousand mourners attended his wake.

His career was brief, but his name lives on. In 1956, a 1,000-seat baseball facility, Harry Agganis Stadium, was dedicated in his honor at Camp Lejeune, NC, where he served. A memorial plaque placed at the field reads, ''Endowed with peerless talent, Corporal Agganis exemplified the finest in competitive spirit and sportsmanship. An All-American football player, and later a professional baseball player, his outstanding accomplishments in the field of athletics were an inspiration to other Marines who served and were teammates with him during his career in the Marine Corps.''

He was inducted posthumously into the College Football Hall of Fame in 1974. In 1995, Gaffney Street in Boston was re-named Harry Agganis Way. In 2004, Agganis Arena was dedicated in his honor on the Boston University campus. Each year, members of the New England Sportswriters Association present the Harry Agganis Award to the outstanding New England college football senior.

His character and accomplishments have been set to music by a talented songwriter and devoted Red Sox fan in Bangor, ME, named Joe Pickering, Jr. Joe recently retired after 30 years of dedicated service as executive director of Community Health and Counseling Services in Bangor. It is my pleasure to have printed his inspiring lyrics into the RECORD:

THE GOLDEN GREEK

Time washes away people who depart
You who remain cherish heroes of the heart
They seldom grace earth but, not for long
The Golden Greek lives in this song

Too many athletes spell team as m-e
The Golden Greek knew team meant only we
This All-American truly stood apart
The Golden Greek was simply pure of heart

Four hundred churches honored for forty days
The man who touched many hearts in so many ways
Fifty thousand said goodbye as his church choir
Sang love for the man who set the sports world afire

Harry Agganis stirred heart and soul
Did God take him so he would never grow old?
Heroes live forever though Harry died young
The song of the Golden Greek will always be sung

Thousands of marines in the Carolina sun
Named a field for the marine who left no deed undone
The first Olympic heroes won olive wreaths
His silver wreath from the king and queen of Greece

The seventh child of immigrants born in Lynn
Learned playing the game right was the way to win
He hit major league pitching at fourteen years of age
Then went on to glory on the sports page

This Hall of Famer scrambled forty yards from the pocket
He threw feather passes or shots like a rocket
Though he looked and played like a Greek god
This flesh and blood hero was one with the lord

He gave to the poor and church, gifts he received
Harry lived the golden rule, as he believed
His smile warm and bright like sunshine in July
Why at twenty-six did this Red Sox star die?

The NFL played games in honor of his name
All for a man who never played a pro game
He planned to play for the Sox and the NFL
What might have been only God can tell

This hero of the heart was like no other
His last words: were ''take care of my mother''
In the pantheon of sports, the Golden Greek reigns
His mem'ry glowing like the Olympic flame●

TRIBUTE TO LATOYA LUCAS

● Mr. UDALL of Colorado. Mr. President, I wish to recognize Latoya Lucas of Colorado Springs, who will be awarded today with the 2009 Tony Snow Public Service Award. This distinction was created to ''honor extraordinary individuals who are passionate about serving their country while dealing courageously with debilitating intestinal diseases and ostomy surgery.''

In 2003, Latoya was a new mother and an Army specialist serving in Operation Iraqi Freedom when her humvee was attacked by rocket-propelled grenades. She thankfully survived the incident, but her injuries resulted in a colostomy and 2 years of intensive rehabilitation. Latoya's brave service has been recognized by such honors and distinctions as the Purple Heart Medal, the Meritorious Service Medal, and the Soroptimist International Woman of Distinction Award. In 2005, she became the first female recipient of the Military Order of the Purple Heart's Region V Patriot of the Year Award.

After her retirement from the Army, Latoya became a motivational speaker and writer to share her remarkable story with others and encourage people to draw strength from their struggles. Latoya's book, ''The Immeasurable Spirit: Lessons of a Wounded Warrior about Faith and Perseverance,'' received the Gold Medal Award from the Military Writers Society of America. Additionally, Latoya is the chair of the Wounded Warrior Welcome Home Social. She has inspired so many others to draw strength from adversity. As Latoya has said, ''There are so many soldiers who come back home with injuries and untold numbers having ostomy surgery. I answer questions they have and show them that they can lead a full life with an ostomy.''

There are thousands of veterans and Active-Duty members who call Colorado home, a fact that is a source of pride for me. Coloradans like Latoya are a testament to the bravery and strength of our veterans and their remarkable ability to deal with life-changing injuries. Latoya has become a leader and a source of strength for fellow citizens who face similar injuries, and I want to thank her for her service to this country. I am proud to have this opportunity to share just some examples of Latoya's bravery and achievements, and I congratulate her and the other Great Comebacks Award recipients.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:33 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3820. An act to reauthorize Federal natural hazards reduction programs, and for other purposes.

At 6:14 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 239. Concurrent resolution authorizing the use of Emancipation Hall in the Capitol Visitor Center for a ceremony to present the Congressional Gold Medal to the Women Airforce Service Pilots.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3820. An act to reauthorize Federal natural hazards reduction programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4868. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled ''Fiscal Year 2009 Financial Report of the U.S. Government''; to the Committee on Banking, Housing, and Urban Affairs.

EC–4869. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Federal Home Loan Bank Housing Associates, Core Mission Activities and Standby Letters of Credit Rule'' (RIN2590–AA33) received in the Office of the President of the Senate on March 1, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–4870. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility (75 FR 5890)'' ((44 CFR Part 64)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on February 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–4871. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on February 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–4872. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility for Failure to Maintain Adequate Floodplain Management Regulations'' ((44 CFR Part 64)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on February 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–4873. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility (75 FR 6120)'' ((44 CFR Part 64)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on February 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–4874. A communication from the Secretary, Division of Trading and Markets, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Rules 201 and 200(g) of Regulation SHO—Short Sale-Related Circuit Breaker That Imposes a Short Sale Price Restriction'' (RIN3235–AK35) received in the Office of the President of the Senate on March 2, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–4875. A communication from the Deputy Chief Financial Officer and Director for Financial Management, Office of the Secretary, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Civil Monetary Penalties; Adjustment for Inflation'' (RIN0605–AA27) received in the Office of the President of the Senate on February 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4876. A communication from the Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Closed Captioning of Video Programming, Order Suspending Effective Date'' (FCC 09–71) received in the Office of the President of the Senate on February 25, 2010; to the Committee on Commerce, Science, and Transportation.

EC–4877. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a report relative to the progress made in licensing and constructing the Alaska Natural Gas Pipeline; to the Committee on Energy and Natural Resources.

EC–4878. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a fiscal year 2009 report relative to the General Service Administration's Alternative Fuel Vehicle program; to the Committee on Energy and Natural Resources.

EC–4879. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations'' (RIN0648–AW51) received in the Office of the President of the Senate on February 26, 2010; to the Committee on Environment and Public Works.

EC–4880. A communication from the Program Manager, Administration for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Computerized Tribal IV–D Systems and Office Automation'' (RIN0970–AC32) received in the Office of the President of the Senate on February 25, 2010; to the Committee on Finance.

EC–4881. A communication from the Board of Trustees, National Railroad Retirement Investment Trust, transmitting, pursuant to law, an annual report relative to its operations and financial condition; to the Committee on Finance.

EC–4882. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, the 2010 Trade Policy Agenda and 2009 Annual Report of the President of the United States on the Trade Agreements Program; to the Committee on Finance.

EC–4883. A communication from the Secretary of the Department of Commerce, transmitting, pursuant to law, a report relative to the export to the People's Republic of China of items not detrimental to the U.S. space launch industry; to the Committee on Foreign Relations.

EC–4884. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services to Russia relative to the design, manufacture, and repair of the RD—180 Liquid Propellant Rocket Engine Program in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–4885. A communication from the Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single—Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Part 4022) received in the Office of the President of the Senate on February 26, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–4886. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Civil Penalties Under ERISA Section 502(c)(8)'' (RIN1210—AB31) received in the Office of the President of the Senate on February 26, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–4887. A communication from the Human Resources Specialist, Office of Inspector General, Department of Labor, transmitting, pursuant to law a report relative to a vacancy in the position of Inspector General of the Department of Labor; to the Committee on Health, Education, Labor, and Pensions.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BINGAMAN for the Committee on Energy and Natural Resources.

*Patricia A. Hoffman, of Virginia, to be an Assistant Secretary of Energy (Electricity Delivery and Energy Reliability).

*Larry Persily, of Alaska, to be Federal Coordinator for Alaska Natural Gas Transportation Projects for the term prescribed by law.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself and Mr. REID):

S. 3060. A bill to amend the Atomic Energy Act of 1954 to provide for thorium fuel cycle nuclear power generation; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself and Mr. ENSIGN):

S. 3061. A bill to amend part B of title IV of the Elementary and Secondary Education Act of 1965 to improve 21st Century Community Learning Centers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CARPER (for himself, Ms. SNOWE, Mr. BROWN of Ohio, and Ms. COLLINS):

S. 3062. A bill to extend credits related to the production of electricity from offshore wind, and for other purposes; to the Committee on Finance.

By Mr. REID (for himself, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mrs. FEINSTEIN, Mr. MERKLEY, Ms. MURKOWSKI, and Mr. WYDEN):

S. 3063. A bill to direct the Secretary of the Interior to provide loans to certain organizations in certain States to address habitats and ecosystems and to address and prevent invasive species; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself, Mr. CARPER, and Ms. COLLINS):

S. 3064. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the production of energy from deep water offshore wind; to the Committee on Finance.

By Mr. LIEBERMAN (for himself, Mr. LEVIN, Mr. UDALL of Colorado, Mrs. GILLIBRAND, Mr. BURRIS, Mr. BINGAMAN, Mrs. BOXER, Mr. WYDEN, Mr. LEAHY, Mr. SPECTER, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. FRANKEN, and Mr. CARDIN):

S. 3065. A bill to amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as ''Don't Ask, Don't Tell'', with a policy of nondiscrimination on the basis of sexual orientation; to the Committee on Armed Services.

By Mr. AKAKA:

S. 3066. A bill to correct the application of the Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note) to employees paid saved or retained rates; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BURR (for himself and Mr. JOHANNS):

S. 3067. A bill to amend the Internal Revenue Code of 1986 to increase the exclusion for employer-provided department care assistance; to the Committee on Finance.

By Mr. KYL (for Mrs. HUTCHISON):

S. 3068. A bill to reauthorize the National Aeronautics and Space Administration Human Space Flight Activities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHUMER (for himself, Mr. CASEY, Mr. BROWN of Ohio, Mr. TESTER, and Mr. SPECTER):

S. 3069. A bill to amend the American Recovery and Reinvestment Act of 2009 to provide for the preservation and creation of jobs in the United States for projects receiving grants for specified energy property; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. NELSON of Florida (for himself and Mr. LEMIEUX):

S. 3070. A bill to release Federal reversionary interests retained on certain lands acquired in the State of Florida under the Bankhead-Jones Farm Tenant Act, to authorize the interchange of National Forest System land and State land in Florida, to authorize an additional conveyance under the Florida National Forest Land Management Act of 2003, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INHOFE (for himself and Mr. COBURN):

S. Res. 430. A resolution commending the members of the 45th Agri-Business Development Team of the Oklahoma National Guard, for their efforts to modernize agriculture and sustainable farming practices in Afghanistan and their dedication and service to the United States; to the Committee on Armed Services.

By Mr. LUGAR (for himself and Mr. KERRY):

S. Res. 431. A resolution expressing profound concern, deepest sympathies, and solidarity on behalf of the people of the United States to the people and Government of Chile following the massive earthquake; to the Committee on Foreign Relations.

By Mrs. LINCOLN (for herself and Mr. CRAPO):

S. Res. 432. A bill supporting the goals and ideals of the Year of the Lung 2010; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. SHAHEEN (for herself, Mr. CARDIN, Mrs. GILLIBRAND, and Mrs. BOXER):

S. Res. 433. A resolution supporting the goals of ''International Women's Day''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 362

At the request of Mr. ROCKEFELLER, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 362, a bill to amend title 38, United States Code, to improve the collective bargaining rights and procedures for review of adverse actions of certain employees of the Department of Veterans Affairs, and for other purposes.

S. 688

At the request of Ms. SNOWE, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 688, a bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

S. 742

At the request of Mr. CHAMBLISS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 742, a bill to expand the boundary of the Jimmy Carter National Historic Site in the State of Georgia, to redesignate the unit as a National Historical Park, and for other purposes.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite–tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 941

At the request of Mr. CRAPO, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 984

At the request of Mrs. BOXER, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 1273

At the request of Mr. DORGAN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1273, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 1428

At the request of Mr. WHITEHOUSE, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1428, a bill to amend the Toxic Substances Control Act to phase out the use of mercury in the manufacture of chlorine and caustic soda, and for other purposes.

S. 1567

At the request of Mr. BROWNBACK, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1567, a bill to provide for the issuance of a Multinational Species Conservation Funds Semipostal Stamp.

S. 1611

At the request of Mr. GREGG, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1611, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 2898

At the request of Ms. LANDRIEU, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2898, a bill to provide for child safety, care, and education continuity in the event of a presidentially declared disaster.

S. 2924

At the request of Mr. LEAHY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2924, a bill to reauthorize the Boys & Girls Clubs of America, in the wake of its Centennial, and its programs and activities.

S. 2982

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2982, a bill to combat international violence against women and girls.

S. 3014

At the request of Ms. STABENOW, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 3014, a bill to amend the Internal

Revenue Code of 1986 to allow companies to utilize existing alternative minimum tax credits to create and maintain United States jobs, and for other purposes.

S. 3027

At the request of Ms. KLOBUCHAR, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3027, a bill to prevent the inadvertent disclosure of information on a computer through certain ''peer-to-peer'' file sharing programs without first providing notice and obtaining consent from an owner or authorized user of the computer.

S. RES. 409

At the request of Mr. FEINGOLD, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 409, a resolution calling on members of the Parliament in Uganda to reject the proposed ''Anti-Homosexuality Bill,'' and for other purposes.

AMENDMENT NO. 3337

At the request of Mr. SESSIONS, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Alaska (Mr. BEGICH), the Senator from Massachusetts (Mr. BROWN), the Senator from Nebraska (Mr. JOHANNS) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of amendment No. 3337 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3338

At the request of Mr. THUNE, the names of the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. ROBERTS), the Senator from Arizona (Mr. MCCAIN), the Senator from Georgia (Mr. ISAKSON), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of amendment No. 3338 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3344

At the request of Mr. LEVIN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of amendment No. 3344 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3350

At the request of Ms. STABENOW, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 3350 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 3352

At the request of Mr. BOND, his name was added as a cosponsor of amendment No. 3352 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

At the request of Mr. GRASSLEY, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of amendment No. 3352 proposed to H.R. 4213, supra.

AMENDMENT NO. 3353

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of amendment No. 3353 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

At the request of Ms. MIKULSKI, her name was added as a cosponsor of amendment No. 3353 proposed to H.R. 4213, supra.

At the request of Mr. SANDERS, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from New York (Mr. SCHUMER), the Senator from Massachusetts (Mr. KERRY) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of amendment No. 3353 proposed to H.R. 4213, supra.

AMENDMENT NO. 3356

At the request of Mrs. MURRAY, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. DODD), the Senator from New York (Mrs. GILLIBRAND), the Senator from Massachusetts (Mr. KERRY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 3356 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself and Mr. REID):

S. 3060. A bill to amend the Atomic Energy Act of 1954 to provide for thorium fuel cycle nuclear power generation; to the Committee on Energy and Natural Resources.

Mr. HATCH. Mr. President, today I rise to introduce the Thorium Energy Security Act of 2010 with my good friend and colleague Senator HARRY REID as an original cosponsor. Our legislation would establish a regulatory framework and a development program to facilitate the introduction of thorium-based nuclear fuel in existing and future nuclear power plants in the U.S.

The U.S. is dependent on foreign sources for about 90 percent of its uranium fuel needs. However, the most recent U.S. Geological Survey Thorium Mineral Commodity Survey confirms that the U.S. has the largest thorium deposits in the world.

I have been a longtime supporter of our Nation's nuclear power industry, and I expect to see a long future for nuclear power in this nation. I believe that future is enhanced with the possibility of thorium nuclear power as new source of nuclear power in the future.

Thorium-based nuclear fuel will remain in the reactor about three times as long as conventional nuclear fuel, thereby cutting the volume of spent nuclear fuel coming out of reactors by as much as two-thirds. Thorium nuclear fuel could also significantly reduce the possibility that weapons grade material would result from the process. Finally, a thorium fuel cycle can be used as a very effective and efficient means for disposing of existing plutonium stockpiles.

For these reasons, a number of governments throughout the world are aggressively seeking to establish thorium nuclear power as an element of their power supply. These governments want the benefits of nuclear power, without the difficulties associated with large volumes of waste, much of which can be turned to weapons grade material. Our aim with this legislation is to ensure that the U.S. does not fall behind the movement. I hope my colleagues will take a look at the potential for thorium-based nuclear power.

By Mr. DODD (for himself and Mr. ENSIGN):

S. 3061. A bill to amend part B of title IV of the Elementary and Secondary Education Act of 1965 to improve 21st Century Community Learning Centers; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today, joined by my colleague Senator ENSIGN, to introduce legislation that will provide children with safe, healthy, and academically focused afterschool programs.

The Improving 21st Century Community Learning Centers Act of 2010 is endorsed by the Afterschool Alliance, an organization representing more than 25,000 public, private, and non-profit afterschool providers dedicated to expanding access to high quality afterschool programs, as well as a broad coalition of other local and national organizations.

They, and I, have committed to providing quality afterschool care because the record is clear: students who regularly attend afterschool programs have better grades and behavior in school, better peer relations and emotional adjustment, and lower incidences of drug use, violence, and pregnancy. When kids have something productive to do in the hours between when they are let out of school and when their parents get home from work, they are more likely to avoid the traps of risky behavior, more likely to be physically healthy and academically successful, and more likely to fulfill their potential.

As co-chairs of the Afterschool Caucus, Senator ENSIGN and I have worked to expand awareness of these benefits by organizing annual briefings, sharing research, and advocating fiercely for a focus on afterschool care when we talk about how to give our kids the best opportunities possible.

While we know that afterschool care works, the truth is that too many

American kids don't have access to good programs. More than 15 million children—from kindergarten through 12th grade—spend time unsupervised in the hours after school. That includes an incredible 40,000 kindergartners and nearly 4 million middle school students in grades six to eight.

When the bell rings and the school day ends, these kids face some 3 hours of unscheduled, often unsupervised time before their parents get home from work. Those are rarely productive hours, and, worse, those are the hours during which these children are most likely to experiment with risky behaviors.

We can do better for our kids.

The Improving 21st Century Community Learning Centers Act of 2010 has three goals. First, to enhance the quality and sustainability of afterschool programs. Second, to emphasize physical fitness and wellness programs as part of our nationwide effort to reduce childhood obesity, and third, to encourage service learning.

Our legislation provides States with tools designed to keep quality programs going. It would allow program grantees the ability to renew their grants if they can show that the programs are working. It gives states the option to expand technical assistance functions to improve the quality of afterschool programs.

Our legislation will increase opportunities for young Americans to be more physically active. The administration has put a focus on reducing obesity—one of the easiest medical conditions to recognize, but one of the most difficult to treat—among our children. Obesity costs our society as much as $147 billion each year—and the best way to stop it is to encourage our kids to be more active. Afterschool programs offer a tremendous opportunity to do just that, and our legislation includes such wellness efforts in the list of programs that can receive support.

Our legislation encourages kids to get involved in service learning and youth development activities. Service learning integrates student-designed service projects with academic studies. This type of program has been shown to strengthen student engagement, enhance student achievement, lower drop-out and suspension rates, develop workforce and leadership skills, and provide opportunities for teamwork.

Of course, as we offer this legislation, I must also remind my colleagues that afterschool programs only work with sufficient funding. In a difficult economy, it is even more important to focus on empowering these programs. Studies have shown that afterschool care can reduce worker absenteeism by as much as 30 percent and reduce worker turnover by up to 60 percent. Decreased worker productivity related to parental concerns about afterschool care costs our economy up to $300 billion each year. Approximately 1 in 10 children is currently enrolled in afterschool care. However, 2/3 of parents with children who do not participate in a program would enroll their children in afterschool if they had that option. We should work to give them that option.

The Improving 21st Century Community Learning Centers Act is a positive step towards offering all of our children the chance to spend their afternoons safely and productively. It is a step towards making good on the most important promise: the one we make to our kids. I hope that my colleagues will join me in support of this important legislation.

By Mr. REID (for himself, Mr. BEGICH, Mr. BENNETT, Mrs. FEINSTEIN, Mr. MERKLEY, Ms. MURKOWSKI, and Mr. WYDEN):

S. 3063. A bill to direct the Secretary of the Interior to provide loans to certain organizations in certain States to address habitats and ecosystems and to address and prevent invasive species; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I am pleased to introduce bipartisan legislation that will protect the unique ecosystems of the American West from the harmful effects of invasive, non-native species. I am joined by my cosponsors Senators BEGICH, BENNET of Colorado, BENNETT of Utah, FEINSTEIN, MERKLEY, MURKOWSKI, and WYDEN.

The Invasive Species Emergency Response Fund provides resources to prevent the introduction and spread of harmful invasive species; protect susceptible habitats; and establish early detection and rapid response capabilities to combat incipient invasive species populations.

As global climate change patterns shift, particular habitats in the West will be especially vulnerable to the impacts of new species introductions. Hence, the new paradigms in invasive species management provided via this legislation are critically needed. When it comes to invasive species management, history is replete with examples illustrating the adage that ''an ounce of prevention is worth a pound of cure.''

The impact of invasive species in the U.S. is now widespread. More than 6,500 non-native, invasive species have become established populations throughout the U.S. Studies show that the damage caused by these pests and their associated control costs total more than $100 billion annually. The unique ecologies of the West are particularly vulnerable to their harmful effects.

My home State of Nevada is at the center of this ecological storm. Non-native species decrease rangeland capacity; lower water tables; reduce water quality; increase fuel loads; and displace native plants and wildlife habitats. Some in the environmental community have identified the Great Basin as the third most endangered ecosystem in the U.S. due, in part, to the dominance of invasive species.

Moreover, once invasive species have gained a foothold in Western States, they exacerbate other critical issues, including water quantity and quality, and wildfire. Zebra mussels in Lake Mead are poised to wreak havoc on the lake's water quality. Tamarisk's long tap roots infiltrate deep water tables, exploiting up to 200 gallons of water per tree per day. Millions of acres of cheatgrass and beetle-killed trees stand ready to burn if sparked. In fact, the fire cycle in the Great Basin has shortened from 25–50 years to only 3–5 years as a direct result of the take-over of invasive weeds.

These few examples underscore the need for this long overdue legislation. State and local agencies and organizations that fight invasive species need access to resources when a new threat is identified, not when funds are available based on bureaucratic budget cycle.

The revolving loan program established with this bill will provide qualified organizations with the resources they need to tackle invasive species threats within 90 days. The Secretary of the Interior will ensure that these funds are being used for appropriate projects based on vetted review criteria.

Bark beetles, quagga mussels, and Medusahead have no respect for budget cycles or State lines. Hence, I urge my colleagues to support this critical legislation. It is paramount if we want to protect our unique Western landscape.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3063

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Invasive Species Emergency Response Fund Act''.

SEC. 2. PURPOSES.

The purpose of this Act is to encourage partnerships among Federal and State agencies, Indian tribes, academic institutions, and public and private stakeholders—

(1) to prevent against the introduction and spread of harmful invasive species;

(2) to protect, enhance, restore, and manage a variety of habitats for native plants, fish, and wildlife; and

(3) to establish early detection and rapid response capabilities to combat incipient harmful invasive species.

SEC. 3. INVASIVE SPECIES EMERGENCY RESPONSE FUND.

(a) DEFINITIONS.—In this section:

(1) ECOSYSTEM.—The term ''ecosystem'' means an area, considered as a whole, that contains living organisms that interact with each other and with the non-living environment.

(2) ELIGIBLE STATE.—The term ''eligible State'' means any State located in Region 4, as determined by the Census Bureau.

(3) FUND.—The term ''Fund'' means the Invasive Species Emergency Response Fund established by subsection (b).

(4) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination Act and Education Assistance Act (25 U.S.C. 450b).

(5) INTRODUCTION.—The term ''introduction'', with respect to a species, means the intentional or unintentional escape, release, dissemination, or placement of the species into an ecosystem as a result of human activity.

(6) INVASIVE SPECIES.—The term ''invasive species'' means a species—

(A) that is nonnative to a specified ecosystem; and

(B) the introduction to an ecosystem of which causes, or may cause, harm to—

(i) the economy;

(ii) the environment; or

(iii) human, animal, or plant health.

(7) QUALIFIED ORGANIZATION.—

(A) IN GENERAL.—The term ''qualified organization'' means an organization that—

(i) submits an application for a project in an eligible State; and

(ii) demonstrates an effort to address—

(I) a certain invasive species; or

(II) a certain habitat or ecosystem impacted by an invasive species.

(B) INCLUSIONS.—The term ''qualified organization'' includes any individual representing, or any combination of—

(i) public or private stakeholders;

(ii) Federal agencies;

(iii) Indian tribes;

(iv) State land, forest, or fish wildlife management agencies;

(v) academic institutions; and

(vi) other organizations, as the Secretary determines to be appropriate.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(9) STAKEHOLDER.—The term ''stakeholder'' includes—

(A) State, tribal, and local governmental agencies;

(B) the scientific community; and

(C) nongovernmental entities, including environmental, agricultural, and conservation organizations, trade groups, commercial interests, and private landowners.

(b) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Invasive Species Emergency Response Fund'', consisting of—

(1) such amounts as are appropriated to the Fund pursuant to subsection (h); and

(2) interest earned on investments of amounts in the Fund under subsection (e).

(c) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to provide loans under subsection (f)(1).

(2) ADMINISTRATIVE EXPENSES.—Of the amounts in the Fund—

(A) not more than 5 percent shall be available for each fiscal year to pay the administrative expenses of the Department of the Interior to carry out this section;

(B) not more than 5 percent shall be available for each fiscal year to pay the administrative expenses of offices of the Governors of eligible States to carry out this section; and

(C) not more than 10 percent shall be available for each fiscal year to pay the administrative expenses of a qualified organization to carry out this section.

(d) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) INVESTMENT OF AMOUNTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(2) INTEREST BEARING OBLIGATIONS.—Investments may be made only in interest-bearing obligations of the United States.

(f) USE OF FUND.—

(1) LOANS.—

(A) IN GENERAL.—The Secretary shall use amounts in the Fund to provide loans to qualified organizations to prevent and remediate the impacts of invasive species on habitats and ecosystems.

(B) ELIGIBILITY.—

(i) IN GENERAL.—To be eligible to receive a loan under this paragraph, a qualified organization shall submit to the Governor of the eligible State in which the project of the qualified organization is located an application at such time, in such manner, and containing such information as may be required by application requirements established by the Secretary, after taking into account the recommendations of the Governors of eligible States.

(ii) GUBERNATORIAL RECOMMENDATIONS.—In reviewing the applications under clause (i), the Governor may recommend to the Secretary for approval any application of a qualified organization under clause (i) if the Governor determines that the qualified organization is carrying out or will carry out a project—

(I) designed to fully assess long-term comprehensive severity of the problem or potential problem addressed by the project;

(II) that uses early detection and response mechanisms that seek to prevent—

(aa) the introduction or spread of invasive species from outside the United States into an eligible State; or

(bb) the spread of an established invasive species into an eligible State;

(III) to prevent the regrowth or reintroduction of an invasive species, to the extent to which the qualified organization has achieved progress with respect to reduction or elimination of the invasive species;

(IV) in rare or unique habitats, such as—

(aa) desert terminal lakes;

(bb) rivers that feed desert terminal lakes;

(cc) desert springs;

(dd) alpine lakes;

(ee) old growth forest ecosystems; and

(ff) special land allocations, such as wilderness, wilderness management areas, research natural areas, and experimental forests;

(V) that is likely to prevent or resolve a problem relating to invasive species;

(VI) to remediate the spread of aquatic invasive species within important bodies of water, as determined by the Secretary (including the Colorado River);

(VII) to remediate the spread of terrestrial invasive species within important forest ecosystems, including wilderness, wilderness management areas, research natural areas, and experimental forests;

(VIII) to assess and promote wildfire management strategies, increase the supply of native plant materials, and reintroduce native plant species intended to limit or mitigate the impacts of invasive species;

(IX) to assess and reduce invasive species-related changes in wildlife habitat and aquatic, terrestrial, and arid ecosystems;

(X) to assess and reduce negative economic impacts and other impacts associated with control methods and the restoration of a native ecosystem;

(XI) to improve the overall capacity of the United States to address invasive species;

(XII) to promote cooperation and participation between States that have common interests regarding invasive species;

(XIII) that addresses or enhances the efforts of qualified organizations, States, or landscape-level initiatives that have invasive species responsibility, authority, or prevention, remediation and control strategies, and applicable plans in place; or

(XIV) to educate the public regarding the negative effects of invasive species, to help prevent and mitigate the introduction and spread of invasive species into or near high-risk aquatic, terrestrial, and arid ecosystems.

(iii) TRANSMISSION TO THE SECRETARY.—The Governor shall transmit to the Secretary all applications received by the Governor under clause (i).

(C) SENSE OF CONGRESS REGARDING MULTISTATE COMPACTS.—It is the sense of Congress that—

(i) Governors of States should enter into multistate compacts in coordination with qualified organizations to prevent, address, and remediate against the spread of animals, plants, or pathogens, or aquatic, wetland, or terrestrial invasive species;

(ii) the Secretary should give special consideration to multistate compacts described in clause (i) in reviewing loan solicitations and applications of the States and qualified organizations that are parties to the compacts; and

(iii) if a multistate compact is entered into under clause (i), the Governors of all States that are parties to the compact should combine to repay to the Secretary of the Treasury a total combined amount equal to not less than 25 percent of the amount of the loan provided under this Act (including interest at a rate less than or equal to the market interest rate).

(D) PETITIONS.—

(i) ACTION BY GOVERNOR.—Not later than 30 days after the receipt of an application recommended for approval by the Secretary under subparagraph (B)(ii), the Governor of an eligible State shall submit to the Secretary, on behalf of all qualified organizations, a petition, together with copies of the recommended application, to receive a loan under this paragraph.

(ii) APPROVAL.—Not later than 30 days after the date of receipt of a petition under clause (i), the Secretary, at the sole discretion of the Secretary, may approve the petition.

(iii) ACTION ON APPROVAL.—Not later than 30 days after the date of approval of a petition under clause (ii) or the approval by the Secretary of an application otherwise transmitted by a Governor under subparagraph (B)(iii), the Secretary shall provide to the qualified organization a loan under this paragraph.

(E) PRIORITY.—In providing loans under this paragraph, the Secretary shall give priority to applications of qualified organizations carrying out, or that will carry out, more than 1 project described in subparagraph (B)(ii).

(2) REQUIREMENTS.—

(A) LOAN REPAYMENT.—

(i) IN-KIND CONSIDERATION.—With respect to loan repayment under clause (ii), the Secretary may accept, in lieu of monetary payment, in-kind contributions in such form and such quantity as may be acceptable to the Secretary, including contributions in the form of—

(I) maintenance, remediation, prevention, alteration, repair, improvement, or restoration (including environmental restoration) activities for approved projects; and

(II) such other services as the Secretary considers to be appropriate.

(ii) REPAYMENT.—Subject to clause (iii), not later than 10 years after the date on which a qualified organization receives a loan under paragraph (1), the qualified organization shall repay to the Secretary of the Treasury an amount equal to not less than 25 percent of the amount of the loan (including interest at a rate less than or equal to the market interest rate).

(iii) WAIVER.—Not more frequently than once every 5 years, the Secretary, in consultation with the Secretary of the Treasury, may waive the requirements under clauses (i) and (ii) with respect to 1 qualified organization.

(B) LONG-TERM MANAGEMENT AND REMEDIATION STRATEGIES.—The Secretary shall ensure that no loan provided under paragraph (1) is used to carry out a long-term management or remediation strategy, unless the Governor or applicable qualified organization demonstrates either or both a reliable funding stream and in-kind contributions to carry out the strategy over the duration of the project.

(3) RENEWAL.—After reviewing the reports under subsection (g), if the Secretary, in consultation with the Governor of each affected State, determines that a project is making satisfactory progress, the Secretary may renew the loan provided under this subsection for a period of not more than 3 additional fiscal years.

(g) REPORTS.—

(1) REPORTS TO SECRETARY.—For each year during which a qualified organization receives a loan under subsection (f), the qualified organization, in conjunction with the Governor of the eligible State in which the qualified organization is primarily located, shall submit to the Secretary a report describing each project (including the results of the project) carried out by the qualified organization using the loan during that year.

(2) REPORT TO CONGRESS.—Not later than September 30, 2011, and annually thereafter through September 30, 2015, the Secretary shall submit a report describing the total loan amount requested by each eligible State during the preceding fiscal year and the total amount of the loans provided under subsection (f)(1) to each eligible State during that fiscal year, and an evaluation on effectiveness of the Fund and the potential to expand the Fund to other regions, to—

(A) the Committees on Appropriations, Energy and Natural Resources, and Environment and Public Works of the Senate; and

(B) the Committees on Appropriations and Natural Resources of the House of Representatives.

(3) REPORT BY BORROWER.—

(A) IN GENERAL.—Each qualified organization that receives a loan under subsection (f)(1) shall submit to the Secretary a report describing the use of the loan and the success achieved by the qualified organization—

(i) not less frequently than once each year until the date of expiration of the loan; or

(ii) if the loan expires before the date that is 1 year after the date on which the loan is provided, at least once during the term of the loan.

(B) INTERIM UPDATE.—In addition to the reports required under subparagraph (A), each qualified organization that receives a loan under subsection (f)(1) shall submit to the Secretary, electronically or in writing, a report describing the use of the loan and the success achieved by the qualified organization, expressed in chronological order with respect to the date on which each project was initiated—

(i) not less frequently than once every 180 days until the date of expiration of the loan; or

(ii) if the loan expires before the date that is 180 days after the date on which the loan is provided, on the date on which the term of the loan is 50 percent completed.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund $80,000,000 for each of fiscal years 2011 through 2015.

By Ms. SNOWE (for herself, Mr. CARPER, and Ms. COLLINS):

S. 3064. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the production of energy from deep water offshore wind; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise to speak about legislation that I am introducing today, the Deepwater Wind Incentive Act, which will provide a critical long-term renewable production tax credit for developing deepwater wind facilities in the U.S.

Deepwater wind refers to a new offshore wind technology that utilizes advanced floating technologies to remove restrictions on the depth of the water and expand our offshore wind resource by nearly a magnitude of six. Last year, Popular Science named deepwater wind one of the eight technologies that can revolutionize our energy paradigm. I am pleased to have worked with Senators CARPER and COLLINS, two longtime leaders on offshore wind development, on this proposal and look forward to discussing this bill with my Finance Committee colleagues.

Currently, there is a race to develop deepwater offshore wind facilities that could eventually be placed throughout our world's oceans and our Great Lakes. A Norwegian company is now moving forward with deployment of the first deep-water offshore floating turbine, which will be located in more than 328 feet of water. The key point is that if you can successfully develop a floating turbine at that depth it can be replicated throughout the world. Our competitors are recognizing this opportunity and are aggressively pursuing this technology. In fact, earlier this year the European Union Industrial Initiative announced a roughly 6 billion euro plan to invest in next generation wind technologies, including deepwater wind, with a goal of supplying 20 percent of its electricity through wind power.

Deepwater wind is a resource that provides a tremendous potential for our country and provides a more consistent resource than onshore and near shore wind. Specifically, the U.S. has over 1500 gigawatts of deepwater offshore wind generation within 50 nautical miles of the coastline, and if our country can develop these deepwater technologies, we will have the equivalent of 1500 medium sized nuclear power plants available within a close proximity to the electricity demand of the U.S.

Accordingly, I have modeled this legislation after the current tax credits available for nuclear power that exists in the tax code. Specifically, the Energy Policy Act of 2005 provided a production tax credit for the first 6,000 megawatts from advanced nuclear power. The Deepwater Wind Incentive Act, follows this template and provides a 50 percent bonus renewable production tax credit for advanced offshore wind facilities that are placed in service in more than 60 meters of water. The credit is capped at the first 6,000 megawatts to provide an incentive for companies to expeditiously research and deploy this technology.

Time after time, the Department of Energy has indicated that wind can provide a substantial amount of electricity in our country. The Department's ''20 percent Wind Energy by 2030,'' outlined the policy steps that would move wind to be a major source of American power. In the report, the DOE states that the wind industry ''has responded positively to policy incentives when they are in effect.'' This tax policy provides a consistent and clear tax credit to achieve the 20 percent by 2030 that is considered in the report. I thank Senator CARPER and Senator COLLINS for their assistance in crafting this legislation and I look forward to working with them to enact this legislation into law.

By Mr. LIEBERMAN (for himself, Mr. LEVIN, Mr. UDALL of Colorado, Mrs. GILLIBRAND, Mr. BURRIS, Mr. BINGAMAN, Mrs. BOXER, Mr. WYDEN, Mr. LEAHY, Mr. SPECTER, Mr. MERKLEY, Mrs. FEINSTEIN, Mr. FRANKEN, and Mr. CARDIN):

S. 3065. A bill to amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as ''Don't Ask, Don't Tell'', with a policy of nondiscrimination on the basis of sexual orientation; to the Committee on Armed Services.

Mr. BURRIS. Mr. President, we just had a press conference this afternoon with reference to don't ask, don't tell, the action we want to take in the Senate for our military people. I would like to make some brief remarks in that regard.

I come to the floor today because I believe in a basic principle, not just a political cause. I come to the floor because courage and valor are blind to race, religion, philosophy, and sexual orientation. I believe every single man and woman who puts on a military uniform is equally deserving of our thanks and our respect, and that when we dismiss the sacrifices made by those with a different sexual orientation, we undermine the strength of our fighting forces. When we fail to recognize the brave contributions gay and lesbian soldiers continue to make every single day, we diminish ourselves as much as we diminish their service. That is why I am pleased to join the following colleagues: Chairman LIEBERMAN, Chairman LEVIN, Senator GILLIBRAND, Senator UDALL of Colorado, and Senator WYDEN in introducing legislation to repeal the military's don't ask, don't tell

policy, a policy which is discriminatory, outdated, and detrimental to our national security.

Let me start by addressing every service man and woman, to those who have served in our Armed Forces in the past. Let's give them a big shout out and a big thank-you. This Nation honors the service and sacrifice of all our veterans and those who are still serving today. Let me say the days of serving in silence—those days are numbered. This legislation will recognize that every soldier, sailor, airman, and marine is equal to every other warrior, so no one will be forced to lie about who they are if they wish to serve this country.

I know there are some who believe this is too big a change, that it is not right and we need to wait. To them I would say it boils down to basic fairness. I remind them that the U.S. military has made policy changes before and with resounding success. The repeal of don't ask, don't tell is not just another vote for me, it is a very personal issue of basic fairness. When I was about 6 or 7 years old, I have a vivid memory of my family members who went off to war, my uncles and uncles-in-law and great uncles who chose to go to war and defend our country, regardless of the color of their skin or occupation or who they were as an individual. That choice defined them as patriots.

I have never forgotten their patriotism or their commitment to this country. But I have also never forgotten that the U.S. military was very different in those days. My family members volunteered to protect this Nation, but simply because of who they were, they had limited opportunities to serve. For all their skill, their talent, their intelligence, and their valor, they were forced to choose among two or three roles. They were forced to either be a cook or forced to dig ditches or forced to drive trucks. The only thing that separated my uncles from their brothers in arms was the color of their skin. But in those days, some people argued that racial integration would undermine the cohesion of our fighting forces. Yet the U.S. military came to recognize this was not the case and successive generations proved that everyone who volunteered to serve was capable of the same patriotism, bravery, and heroism.

That memory is especially crisp as I stand in this Chamber to bring an end to this discriminatory policy that forces our best and brightest to be willing to die for our Nation, while denying they are who they truly are. This, too, is an issue of basic fairness.

More than 60 years ago, President Truman recognized the wisdom of integrating the Armed Forces. He understood that in so doing, the Armed Forces grew stronger and the Nation safer. Today we recognize it is time to end don't ask, don't tell. This repeal of don't ask, don't tell will allow our servicemembers to live their lives openly, honestly, and still fight for the country we all love. So, regardless of sexual orientation or race or any other factor, today we stand to say we are grateful to the brave patriots who chose to defend our Nation and we salute them.

This is about fairness. This is about more than right versus left or Republican versus Democrat. This is about fighting for those who fight for us every day. Ending this policy is the fair thing to do, it is the right thing to do, and it is long overdue.

Mrs. FEINSTEIN. Mr. President, I rise to state my strong support for the Military Readiness Enhancement Act of 2010, which would repeal the ''Don't Ask, Don't Tell'' policy in our Armed Forces.

I am one who believes that the ''Don't Ask, Don't Tell'' policy has done more harm than good. The policy has forced American citizens to choose between serving their country and being honest about who they are; and, even worse, it has led to the discharge of some 13,000 brave men and women because their sexual orientation was discovered.

The criteria for serving in our Armed Forces should be competence, courage, and a willingness to serve; not race, gender, or sexual orientation.

The Military Readiness Enhancement Act of 2010 would finally repeal ''Don't Ask, Don't Tell'' and create a policy of nondiscrimination in the military. That is the right thing to do, and I will support this legislation every step of the way.

The Military Readiness Enhancement Act of 2010 would repeal the 1993 ''Don't Ask, Don't Tell'' policy; allow people who were removed under ''Don't Ask, Don't Tell'' to re-enter the military; establish a policy of nondiscrimination in the Armed Forces to prevent discrimination on the basis of sexual orientation; and require a Pentagon working group established by the Department of Defense to issue recommendations on how to implement repeal throughout the military.

The bill would also require the Secretary of Defense to report to Congress 180 days after enactment on what actions are being taken to ensure that any school that does not allow a ROTC unit on its campus does not receive Federal funds.

It is important for people to realize that ''Don't Ask, Don't Tell'' is not an abstract policy. This policy has had real and harmful effects on our military readiness by denying able and willing men and women the opportunity to serve, and by requiring the discharge of brave individuals who have served courageously and even risked their lives for their country.

Let me give you just a few of the thousands of examples:

Anthony Woods, of Fairfield, CA, graduated from the U.S. Military Academy at West Point and went on to serve two tours of duty in Iraq, including in Operation Iraqi Freedom. He earned the Bronze Star and Army Commendation Medal, and all 81 soldiers who served under his leadership in Iraq returned home safely to the United States. Mr. Woods was discharged from the U.S. Army in 2008 because of ''Don't Ask, Don't Tell.''

MAJ Margaret Witt joined the U.S. Air Force in 1987 and served as a flight nurse for 18 years. She received numerous awards, including the Meritorious Service Metal, Air Medal, and the Air Force Commendation Medal. In 2003, President Bush noted in citation that her ''airmanship and courage directly contributed to the successful accomplishment of important missions under extremely hazardous conditions.'' Major Witt was discharged 6 years ago after the Air Force received a tip that she was gay. Major Witt has challenged her case in court because, as she says, ''I joined the Air Force because I wanted to serve my country. I have loved being in the military—my fellow airmen have been my family. I am proud of my career and want to continue doing my job. Wounded people never asked me about my sexual orientation. They were just glad to see me there.'' The case is currently pending before the Ninth U.S. Circuit Court of Appeals in San Francisco, CA.

LT Daniel Choi, originally from Orange County, CA, also graduated from the U.S. Military Academy at West Point. He is an Arabic linguist and served as an infantry officer in Iraq in 2006 and 2007, but he was recommended for discharge from the U.S. Army after announcing last year that he was gay. Lieutenant Choi has said that: ''The lessons of courage, integrity, honesty and selfless service are some of the most important. . . . I refuse to lie to my commanders. I refuse to lie to my peers. I refuse to lie to my subordinates. I demand honesty and courage from my soldiers. They should demand the same from me.'' The New York National Guard has recently indicated that they will allow Lieutenant Choi to begin participating in drills with the unit again. LTC Paul Fanning, a spokesperson for the New York Guard, has stated: ''We do not have an issue with it. It's a deeply personal thing. To us a soldier is a soldier is a soldier.''

Veteran U.S. Marine Bob Lehman, of San Diego, CA, served in the gulf war in the 1990s and was never dismissed for being gay. He has explained that, ''Nobody in my unit knew artillery better than I did, including the officers. During combat, the gay thing didn't even exist. My biggest fear was bringing my guys home alive.'' However, Mr. Lehman has said he believes that the ''Don't Ask, Don't Tell'' policy forces U.S. soldiers into a moral dilemma. ''Marines don't lie, cheat or steal. It was hard to lie . . . There was a lot of denial and depression because of the inability to be out openly, (the fear) that I might get fired.''

Courageous men and women like these should be applauded for their service, not discharged for their sexual

orientation. The Military Readiness Enhancement Act of 2010 would ensure that is the case and would require the military to readmit anyone who was discharged solely because of their sexual orientation and is otherwise willing and able to serve.

The ''Don't Ask, Don't Tell'' policy has long been a contentious one, and I do not state my support for repeal lightly.

It is absolutely essential that we undertake this project with great care, so that repeal of the policy will enhance military readiness and the effect will be positive for all of our servicemembers in the field.

I am confident that we are up to the task of doing so.

In the last few months alone, high ranking officials from various components of the military have come forward to say that repeal is not only feasible, it is the right thing to do. For example:

ADM Mike Mullen, Chairman of the Joint Chiefs of Staff, testified before the Senate Armed Services Committee that, ''Speaking for myself and myself only, it is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do. No matter how I look at the issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens.''

Secretary of Defense Robert Gates testified at the same hearing that, ''I fully support the president's decision. The question before us is not whether the military prepares to make this change, but how we best prepare for it.''

Secretary of the Navy Ray Mabus has said, ''I support the repeal of ''Don't Ask, Don't Tell.'' I do think the President has come up with a very practical and workable way to do that to work through the working group that the Secretary of Defense has set up, to make sure that we implement any change in the law that Congress makes in a very professional and very smooth manner, and without any negative impacts on the force.''

Retired General Colin Powell issued an official statement expressing that ''In the almost 17 years since the ''Don't Ask, Don't Tell'' legislation was passed, attitudes and circumstances have changed. I fully support the new approach presented to the Senate Armed Services Committee this week by Secretary of Defense Gates and Admiral Mullen.''

These military leaders believe repeal is not only feasible, it is right. According to the University of California, military leaders in many other countries agree. Twenty-five countries currently have policies allowing gay servicemembers to serve openly in their militaries, including 15 NATO countries, Australia and Israel.

This year, Secretary Gates has appointed a Pentagon working group to study in great detail how repeal can be implemented in a manner that will enhance the readiness and effectiveness of our troops. This group, led by Army General Carter Ham and Pentagon General Counsel Jeh Johnson, is tasked with engaging troops and their families at all levels of the Armed Forces to determine what changes will be necessary in regulations, in education and training practices, and in military policy to implement a policy of nondiscrimination on the basis of sexual orientation in our Armed Forces. The study will be careful, and the review will be comprehensive.

The time has come to repeal ''Don't Ask, Don't Tell.'' I urge my colleagues to join me in supporting the Military Readiness Enhancement Act of 2010. I am confident that our military will be stronger and better when this bill becomes law.

By Mr. KYL (for Mrs. HUTCHISON):

S. 3068. A bill to reauthorize the National Aeronautics and Space Administration Human Space Flight Activities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. HUTCHISON. Mr. President, I am introducing legislation today that is intended to chart what I believe to be the proper course for the future of the nation's human space flight programs. This bill would provide an alternative to the Administration's proposed course of ending the government role in Human Space Flight and avoid the complete reliance on other nations or an as-yet-unproven commercial capability to launch American astronauts and scientists into space. It would also reaffirm the goals of moving beyond low-earth orbit and restore the kind of exciting vision that will help inspire young people to excel in Science, Technology, Engineering and Mathematics. The bill echoes the decision of the Obama administration to support the International Space Station, ISS, through at least the year 2020, as we endorsed in our NASA Authorization Act, passed in 2008. But the administration's proposal does nothing to ensure that we can fully maintain and utilize the space station, especially during the next 5 years. This bill would correct that, and ensure that full use of the space station is not an empty promise.

Since the release of the fiscal year 2010 Budget last year, the future of human space flight programs has been in question. As part of that Budget Request, the administration announced it would establish an independent review panel, chaired by my good friend Mr. Norman Augustine, to review U.S. Human Space Flight Plans and provide options for how those programs should proceed in the future.

The Augustine Panel completed its review in late August of last year, and provided its Summary Report to NASA, the White House, and the Congress on September 8, 2009. Shortly thereafter, the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation held a hearing on the report with Mr. Augustine appearing as our witness. The Augustine Panel released its full report at the end of September, and we have all been awaiting the response of the Obama administration to the report.

When the fiscal year 2010 Budget was submitted in 2009, the budget request for Exploration Systems included a notation that the amount requested was a ''placeholder'' number, and that, once the Human Space Flight Plans Review Committee completed its work, the Administration would submit an amended budget request to support the programmatic decisions made as a result of that report. That never happened. Instead, the response to the Augustine Panel Report was left to the fiscal year 2011 Budget request, which we received on February 1st. Because of the administration's failure to offer a budgetary blueprint until the fiscal year 2011 budget, we will now experience yet another year's delay in undertaking the steps necessary to advance beyond the uncertainty about the future of human space flight programs that prompted the review.

The Augustine Panel provided five basic options for consideration, with an additional two options that were modifications of these five basic options. The Augustine Panel thus provided a total of seven approaches that could be taken to ensure America's continued leadership in space—to establish a space program ''worthy of a great nation,'' as suggested by the title of their final report. None of those options leapt out as the obvious, consensus answer to the mix of vehicle development options and strategies necessary to meet the challenges of the next generation of human space flight. There was, however, a clear consensus on two important points.

First, the Panel found that, without a significant increase in the total amount of funding made available to NASA, none of the options presented could be expected to succeed—including the current plans and programs for developing the Ares 1 and Ares V launch vehicles and the Orion Crew Exploration Vehicle. The Panel's conclusion underscored what we in the authorizing committees have been saying for the past five years, and which formed the basis for the funding levels that we authorized in both our 2005 and 2008 NASA Authorization Acts, which would have led to a more timely and successful level of development for the vehicles to replace the space shuttle systems. The Bush administration, however, simply never requested that level of funding. In fact, the prior Administration even reduced the level of funding for those programs that had been projected in the run-out estimates included in the fiscal year 2005 Budget Request, which initiated the ''Vision for Exploration'' announced by President Bush on January 14, 2004.

Second, the Panel recommended that a decision be made to formally extend U.S. plans to operate and utilize the ISS through at least the year 2020. This was also consistent with guidance the authorizing committees provided in the 2008 NASA Authorization Act, where we directed NASA to take no steps to preclude operations of ISS through at least 2020, and directed the Agency to provide a plan which would outline how they would prepare to support and utilize the space station for that extended period of time. Up to that point, NASA's internal planning—and budget guidance from the Office of Management and Budget—was to cease operations aboard the space station in 2015, just five years after its assembly and outfitting would finally be completed by the remaining space shuttle flights.

Some of the good news in the fiscal year 2011 Budget Request is that the Obama administration agrees with the need to continue supporting the space station to at least 2020, and to expand and increase its utilization for research. That is welcome news. The problem is that the request does not provide the means to ensure that the extension and full utilization of the space station can be realized.

It is worth noting that after the budget reductions were made for Exploration in the 2006 Budget Request, the number of flights planned to complete space station assembly were reduced—at the direction of OMB for purely budgetary reasons—from 28 remaining flights to 17 flights, plus an optional added flight to conduct a final mission to service the Hubble Space Telescope. The effect of those reductions was to force NASA to change the planned payloads for those remaining 17 flights to try to accommodate the most important spare parts and replacement parts from the 10 ''cancelled'' flights, for ensuring the safe and effective operation and utilization of the station. Ten flights' worth of flight-ready payloads—averaging between 40,000 to 50,000 pounds per flight—were essentially relegated to storage warehouses where most of them remain today, ready to fly, ready to use, but with no guaranteed ''ticket to ride'' to be of any use to the station. Over 1,400 parts and pieces of equipment, Mr. President! What is most important to remember, is that the decisions about which instruments and equipment to swap into the remaining flights were based on the internal assumption of the need to support the ISS through 2015—not through 2020.

The result of this is that we do not know how many, or which, of those ''grounded payload'' items might actually be needed in order to ensure the station can be supported and maintained until 2020. Not only that, we do not know which, or how many, of them are simply too large or too heavy to be carried to orbit by any existing vehicle other than the space shuttle. And finally, we do not know what additional items might need to be ordered, manufactured and delivered in the future, or what launch vehicle capacity will be needed to deliver them to the station.

This is not the way a great nation should conduct its civil space program. This is not the way to ensure that a decision and pronouncement to continue operations through 2020 will not become an empty gesture due to the deterioration, damage, or failure of equipment and systems vital to providing the oxygen, water, power to make the ISS habitable and to support scientific research in the period following 2015.

This is just one example of the type of considerations that preparations that the Obama administration appears to have ignored while preparing its response to the Augustine panel Report. It is an issue I propose to address, among many, in the legislation being introduced today.

Since last May, when the President announced the appointment of a Committee to review U.S. Human Space Flight Plans, we have all been waiting for clear policy direction based on the report of that Committee, which was released in late September. Throughout that time, at my direction, my committee staff carefully followed the public meetings and briefings of the Augustine panel, and considered the implications of the various options discussed and eventually included in the panel's final report.

In the course of that ongoing review, as well as our Committee hearing last September, I began forming my own conclusions about the correct path for the future of U.S. human space flight programs, as is my responsibility as the Ranking Republican on the policy and oversight committee for NASA. The key factors driving my position regarding that path forward have been: the need to maintain U.S. leadership in space exploration, which I believe is essential to our economic and national security; the need to ensure we do not lose the skills, expertise and industrial capacity that are necessary to conduct space exploration; the need to ensure, as our Committee has in the previous two NASA Authorization bills we have developed and seen enacted into law, that NASA has both a balanced range of activities across its full mission responsibilities, and was authorized the funds needed to carry out that range of activities; and the need to protect—and capitalize on—our massive investment in the ISS, which, along with our international partners, is close to $100 billion. Now that it is almost completed and has a six-person permanent crew, we can begin to conduct the research that we have anticipated all these years during its construction. Research that has the potential to fundamentally change and enhance our understanding of physical processes, vaccine development, and a whole host of other research.

In order to meet those needs, we must first take steps to ensure we do not have an extended period of time during which there is no capability within the United States to launch humans into space, whether to the space station or any other destination. The easiest, most logical and obvious answer in the short term is to continue to use the one launch vehicle that already exists, has a proven history of 98.7 percent probability of success for each mission, and upon which the space station was designed, assuming the shuttle's availability throughout the station's on-orbit lifetime to provide support and maintenance.

Prematurely and voluntarily ending the space shuttle program without a near-term U.S.-built alternative on the horizon simply seems irresponsible, and that is an issue that I believe the Congress must address. While the Space Shuttle will never be completely safe, just as with any vehicle that must carry humans into the harsh environment of space, it is currently flying as safely, if not more safely, than it ever has.

The legislation I am introducing today would ensure that a final decision on the timing of the space shuttle retirement, or even the number of missions it might still be required to fly, would not be made until the issues involved are fully considered and resolved and we are fully convinced that the shuttle's capability is no longer needed. In particular, we must answer the question of how we support, maintain, and fully utilize the ISS, not just in 5 or more years, when any new commercially-developed vehicle might be available, but right now, as we are about to cut the ribbon on it as a finally completed research facility.

I have already mentioned the lack of complete information regarding the ability to adequately ensure the availability and deliverability of spare and replacements parts needed between now and 2020 to keep the space station fully and safely functional. All this is to underscore that the issue of whether to continue flying the shuttle, and the number of additional shuttle flights that are needed, is not simply a matter of shortening the gap between shuttle retirement and the availability of its replacement, or protecting a vitally important workforce. This issue also requires policy makers to understand what the space shuttle can do—and possibly do exclusively in the case of large, heavy replacement systems and structures—to ensure that the promise to extend the ISS to 2020 can actually be fulfilled. We must be certain the ISS can be kept alive and fully functioning over the next 10 years. Again, the administration's Budget Request offers no answers to how we will be able to deliver all the equipment necessary to extend the life of the ISS if the shuttle is not available.

I am also very concerned about the proposal to simply cancel the Constellation programs of Ares 1, the low-earth orbit crew launch vehicle, the Ares V Heavy Lift vehicle for enabling flights beyond low-Earth orbit, and the

Orion Crew Exploration capsule to carry the crews for both of those missions. It is very clear that many of my colleagues are also deeply concerned about this part of the President's budget. I simply believe any decision to terminate those projects needs much more consideration than I believe it has gotten during the preparation of the Obama administration's proposal for NASA.

The approach of the administration—their so-called ''bold new initiative''—is to turn to an entirely new approach based exclusively on the development of commercially-developed crew launch systems. There appears to have been little thought given to how we might leverage the $9 billion already spent on the Constellation vehicles in the identification of potential providers for those commercial systems. I believe that is wasteful and irresponsible and all but guarantees that commercial developments will start from scratch—and therefore take much longer to develop and be much more costly, in the long run, to the American taxpayers.

Another concern with this new approach is that we do not yet have any details about how the $6 billion proposed in the Budget Request for commercial space flight over the next 5 years will be allocated and what it will be expected to support. We don't know whether this will be a collaborative program, creating incentives for matching funding from the private sector, or whether it will represent more of a government subsidy to develop systems for which there may not be a sustainable market for those services beyond what NASA would purchase. I am philosophically and fundamentally opposed to such government subsidies, particularly when it is not clear that taxpayer funding for an approach like this won't have to be followed by even more taxpayer dollars to keep the systems available to meet the needs of the space station, or other government space projects.

The legislation I am proposing will address that issue by directing NASA to consider ''commercial'' options that include the possibility of agreements not only with the ''entrepreneurial'' start-up companies like SpaceX, which represent an exciting but still unproven set of vehicles designed to service a still non-existent commercial market, but also with other, longer-standing and experienced commercial companies. The key aerospace companies with whom NASA currently has development contracts might well be able to jointly develop a new launch system as a modification of their existing contracts under the Constellation program. They could combine their expertise and capability to transition their efforts toward developing a new launch capability based on existing shuttle main engines, external tank manufacturing capability, solid rocket motors, and the Orion crew vehicle. Something like that has been, I am told, a subject of informal conversations among those companies for some time. I believe we need to ensure through legislation that such an alternative will be fully evaluated and considered as one possible approach to the new ''commercial'' space systems development. We have not been given details of this possible approach, because those discussions are apparently still ongoing. But I believe we need to make sure there is a legislative underpinning that would at least allow the full consideration of that approach.

I would not view such an approach as precluding the continued pursuit of the current COTS, Commercial Orbital Transportation Systems, activities being pursued with SpaceX and Orbital Sciences Corporation for cargo delivery services for the Space Station. I have consistently supported that development and believe we should continue to do so. My concern, one I know that of a number of my colleagues share, is to ensure we have redundant and alternative means of providing U.S. human spaceflight capability. If one of those can be more fully commercial in nature, and something that can stand on its own without the taxpayers being responsible for their success, so much the better.

I will be working with my colleagues in the Senate, and reaching out to our counterparts in the House of Representatives, to ensure all of these issues are put on the table for discussion, using the vehicle of this legislation to provide an alternative view to that proposed by the Obama Administration.

This legislation actually tracks closely with the President's request, in terms of the amounts authorized for NASA. It authorizes programs largely at funding levels already enacted for fiscal year 2010, with some very minor exceptions, and at the same base account levels requested by the administration for fiscal year 2011 and fiscal year 2012.

What my legislation adds is the authorization levels necessary to implement the potential continuation of space shuttle flights, at a greatly reduced annual level of flights and associated costs, as well as modest increases in the short-term for the establishment and support of an enterprise to be developed to manage and operate the U.S. National Laboratory.

The greatest difference, as I have indicated, is that this legislation points the way to what I believe is a more measured and reasoned approach that ensures the best use of investments we have already made, provides the Congress and the administration with necessary information to inform our judgments on alternative launch vehicle developments, and provides a means of avoiding severe economic dislocations in the aerospace industry and the highly skilled and dedicated workforce that has provided the capability for this nation to be the world leader in space exploration.

I strongly encourage my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3068

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Human Space Flight Capability Assurance and Enhancement Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The United States Human Space Flight program has, since the first Mercury flight on May 5, 1961, has been a source of pride and inspiration for the Nation.

(2) The extraordinary challenges of achieving access to space both motivated and accelerated the development of technologies and industrial capabilities that have had widespread applications which have contributed to the technological excellence of the United States.

(3) It is essential to the economic well-being of the Nation that the aerospace industrial capacity, highly skilled workforce, and embedded expertise remain engaged in demanding, challenging, and exciting efforts that ensure United States leadership in space exploration and related activities.

(4) The completion of the International Space Station, the ability to sustain a crew of at least 6 members, and the ability to conduct unique microgravity research that can only be accomplished in the space environment, provides an opportunity for scientific and technological advancement that must be immediately and fully exploited.

(5) The designation of the U.S. Segment of the International Space Station as a National Laboratory, as provided in section 507 of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16767) and as further provided in subtitle A of title VI of the National Aeronautics and Space Administration Authorization Act of 2008 (42 U.S.C. 17751 through 17753), provides an opportunity for multiple United States government agencies, University-based researchers, commercial research organizations, and others to utilize the unique environment of microgravity for fundamental scientific research and potential commercial developments.

(6) In order to assure the full and complete utilization of the International Space Station, including the ability to sustain the systems and physical infrastructure of the vehicle, effective and timely transportation systems are required, which must be able to deliver the full range of logistics, support, and maintenance items which may be necessary through the year 2020.

(7) For some potential replacement elements necessary for Space Station sustainability, the Space Shuttle represents the

only vehicle, existing or planned, capable of carrying those elements to the International Space Station in the near term.

(8) In order to ensure effective utilization of Space Station research facilities, the capability for returning processed experiment samples and research-related equipment to Earth is essential.

(9) The maintenance of human exploration goals, such as a return to the Moon, a voyage to Mars, or other celestial bodies or locations is essential for providing the necessary long-term focus and programmatic robustness of the United States civilian space program.

(10) The United States must develop, as rapidly as possible, replacement vehicles capable of providing both human and cargo launch capability to low-Earth orbit and, by expansion or modification of core design features, capable of delivering large payloads into low-earth orbit or to destinations beyond low-Earth orbit.

(11) While commercial transportation systems may contribute valuable services, it is in the United States' national interest to maintain a government-operated space transportation system for crew and cargo delivery to low-Earth orbit and beyond.

SEC. 3. STATEMENT OF HUMAN SPACE FLIGHT POLICY.

(a) USE OF NON-U.S. HUMAN SPACE FLIGHT TRANSPORTATION CAPACITY.—It is the policy of the United States that reliance upon and use of non-United States human space flight capability shall only be undertaken as a temporary contingency in circumstances where no United States-owned and operated human space flight capability is available, operational, and certified for flight by appropriate Federal agencies.

(b) U.S. HUMAN SPACE FLIGHT CAPACITY.—The Congress reaffirms the policy stated in section 501(a) of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16761(a)), that the United States shall maintain an uninterrupted capability for human space flight and operations in low-earth orbit, and beyond, as an essential instrument of national security and the ability to ensure continued United States participation and leadership in the exploration and utilization of space.

SEC. 4. SPACE SHUTTLE OPERATIONS.

(a) RETENTION OF SPACE SHUTTLE OPERATIONS CAPABILITY.—

(1) IN GENERAL.—The Administrator shall take all necessary steps to ensure that all Space Shuttle Program activities and operations are able to continue, or to be resumed, including flight operations and support, pending the completion of the reviews, requirements, and reports of this section.

(2) CURRENT SHUTLE MANIFEST FLIGHT ASSURANCE.—The Administrator shall take all steps necessary to ensure shuttle launch capability through fiscal year 2011 to enable launch, at a minimum, of all payloads manifested as of February 28, 2010. In fulfillment of this requirement, the Administrator is prohibited from terminating any contractor support which will endanger or inhibit the launching of shuttle payloads manifested as of February 28, 2010, should launches be required after the first quarter of fiscal year 2011.

(b) CERTIFICATION OF SPACE SHUTTLE SYSTEMS; VALIDATION OF FLIGHT READINESS DETERMINATION PROCEDURES.—No later than 30 days after the date of enactment of this Act the Administrator shall ask the National Academies of Science to appoint a Flight Certification Review Committee, consisting of 5 individuals with appropriate engineering expertise and experience in certification of space flight vehicle hardware, systems, and equipment testing and validation procedures, to review space shuttle certification activities undertaken or initiated after February, 2003. The Committee shall provide an assessment regarding the adequacy of those validation procedures in assuring vehicle durability, flight-worthiness, and sustainability for continued operations through a period of up to 5 years beyond the space shuttle flight manifest planned as of February, 2010. The Committee shall take into account current and historical trends in anomaly detection and resolution within major components of the space shuttle systems.

(c) COMPLETION OF CERTIFICATION REVIEW AND REPORTING REQUIREMENT.—The Committee appointed under subsection (b) shall complete its task within 90 days of its appointment and shall provide its findings and determinations concurrently to the Administrator and to the committees of jurisdiction no later than 120 days after the date of enactment of this Act.

(d) SPACE SHUTTLE CAPABILITY RETENTION.—Notwithstanding any other provision of law, to the extent practicable NASA shall operate the Space Shuttle program at a flight rate of no more than 2 missions in any consecutive 12-month period beginning during the fiscal years for which appropriations are authorized under section 9 of this Act.

(e) EXISTING HARDWARE COMPONENTS.—The Administrator shall ensure that hardware components in existence as of March, 2010, remain available for use in connection with any additional flights required under subsection (g)(2) beyond those on the current flight manifest schedule.

(f) PROHIBITION OF SCHEDULED TERMINATION.—The Administrator may not terminate the Space Shuttle Program as of a scheduled date certain.

(g) TERMINATION CONDITIONS.—Termination of space shuttle missions operations shall be contingent upon—

(1) completion of the space shuttle flights planned as of February 28, 2010;

(2) delivery of remaining manufactured orbital replacement units, research instrumentation, and other maintenance materials and equipment originally scheduled for delivery to the International Space Station in the flight manifest schedule prepared no later than November, 2005, and which are identified in the review required by section 5(b)(2) and deemed essential for maintenance and support of the International Space Station through the end of fiscal year 2020, and which require the payload capability of the space shuttle Orbiter for delivery to the International Space Station; and

(3) a determination by the President that termination of space shuttle missions in support of International Space Station operations—

(A) is consistent with paragraph (2) of this subsection, and any other provision of this Act regarding the provision of human space flight capabilities; and

(B) will not cause a degradation of the equipment, logistics, cargo up-mass and down-mass delivery capability necessary to provide full utilization of international space station science and research capabilities for both United States National Laboratory and International Partner scientific research and experimentation which the United States is obligated by international agreement to provide.

(h) ADDITIONAL DETERMINATION REQUIREMENTS.—The President shall include in such a determination a detailed description of alternate means for the provision of necessary support for the conduct of full utilization of the International Space Station for research and development in science, engineering, and technological development, the scheduled availability of such alternative means of support, and such materials as may be necessary to justify the determination.

(i) NOTICE TO CONGRESS.—The President shall provide any determination under this section to the committees of jurisdiction, which shall review such determination and consider whether to recommend legislative action to establish further conditions for termination of space shuttle operations.

(j) TERMINATION.—The Administrator may not take steps to terminate the Space Shuttle Program before the later of—

(1) the date that is 60 legislative days after receipt of the determination by the Congress; or

(2) the date on which the Congress has taken final action with respect to any bill reported by a committee of jurisdiction pursuant to subsection (i).

(k) DECOMMISSIONING OF ORBITER VEHICLES.—

(1) IN GENERAL.—Upon the termination of the Space Shuttle program as provided in this section, the Administrator shall assume responsibility for decommissioning the remaining orbiter vehicles according to established safety and historic preservation procedures prior to their designation as surplus government property. The remaining orbiter vehicles shall be made available and located for display and maintenance by a competitive procedure established pursuant to the disposition plan developed under section 613(a) of the National Aeronautics and Space Administration Authorization Act of 2008 (42 U.S.C. 17761(a)), with priority consideration given to eligible applicants meeting all conditions of that plan which would provide for the location, display, and maintenance of one orbiter at or near the Johnson Space Center, in Houston, Texas, and one orbiter at or near the Kennedy Space Center near Titusville, Florida.

(2) DISPLAY AND MAINTENANCE.—The orbiter vehicles made available under paragraph (1) shall be displayed and maintained through agreements and procedures established pursuant to section 613(a) of the National Aeronautics and Space Administration Authorization Act of 2008 (42 U.S.C. 17761(a)). NASA shall be responsible for the costs of safely decommissioning, transporting, and re-assembling the orbiter vehicle for display.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to NASA such sums as may be necessary to carry out this subsection.

(l) PRESERVATION OF VEHICLE AND SYSTEMS DESIGN AND ENGINEERING DATA.—The Administrator shall immediately take all necessary steps to ensure the collection and preservation of space shuttle structures, systems, and infrastructure design, manufacturing, testing, and maintenance data for historical archival purposes and for possible use as technical resource material and programmatic lessons learned and technical interchange applicability for future space vehicle design and operations.

SEC. 5. INTERNATIONAL SPACE STATION OPERATIONS.

(a) POLICY STATEMENT.—It shall be the policy of the United States, in consultation with its International Partners in the International Space Station program, to support full and complete utilization of the Space Station through at least the year 2020.

(b) MAINTENANCE OF U.S. SEGMENT.—

(1) IN GENERAL.—The Administrator shall take all steps necessary to ensure the safe and effective operations, maintenance, and maximum utilization of the United States Segment of the International Space Station through fiscal year 2020.

(2) VEHICLE AND COMPONENT REVIEW.—In carrying out paragraph (1), the Administrator shall, immediately upon enactment of this Act, conduct an in-depth assessment of

all essential modules, operational systems and components, structural elements, and permanent scientific equipment on board or planned for delivery and installation aboard the International Space Station, including both United States and international partner elements, to determine anticipated spare or replacement requirements to ensure complete, effective, and safe function and full scientific utilization of the ISS. The Administrator shall enable the Comptroller General to monitor and, as appropriate, participate in the review required by this paragraph in such a way as to enable the Comptroller General to provide an independent assessment of the review to the committees of jurisdiction.

(3) REPORTING REQUIREMENTS.—No later than 90 days after the date of enactment of this Act the Administrator shall provide the completed assessment to the committees of jurisdiction. The results of the required assessment shall include, at minimum, the following:

(A) The identification of spare or replacement elements and parts currently produced, in inventory, or on order, and the state of readiness and schedule for delivery to the ISS, including the planned transportation means for such delivery. Each element identified shall include a description of its location, function, criticality for system integrity, and specifications regarding size, weight, and necessary configuration for launch and delivery.

(B) The identification of anticipated requirements for spare or replacement elements not currently in inventory or on order, a description of their location, function, criticality for system integrity, the anticipated cost and schedule for design, procurement, manufacture and delivery, and specifications regarding size, weight, and necessary configuration for launch and delivery, including available launch vehicles capable of transportation of such items to the International Space Station.

(c) RESEARCH FACILITIES AND CAPABILITIES.—Utilization of research facilities and capabilities aboard the International Space Station other than exploration-related research and technology development activities, and associated ground support and logistics, shall be planned, managed, and supported by the organizations described in section 6.

SEC. 6. INTERNATIONAL SPACE STATION MANAGEMENT AND UTILIZATION.

(a) ESTABLISHMENT OF OFFICE OF RESPONSIBILITY FOR UNITED STATES SPACE STATION NATIONAL LABORATORY.—The Administrator shall establish responsibility for the International Space Station United States National Laboratory within the Space Operations Mission Directorate, ISS Program Office at NASA Headquarters, or any successor entity within NASA. The head of the Office shall be an official, designated by the Administrator, who shall serve as a Deputy Associate Administrator for International Space Station, or at an equivalent rank, and to whom responsibility shall be delegated for, at a minimum, the conduct of ISS operations, maintenance and utilization by both NASA and non-NASA organizations. The Officer shall serve as the formal liaison to the organization specified in subsection (b).

(b) ESTABLISHMENT OF NATIONAL LABORATORY MANAGEMENT ENTITY.—The Administrator shall execute an agreement with a cooperative organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code to manage the activities of the ISS United States National Laboratory. The organization shall be designed specifically for the unique purpose of developing and implementing research and development projects utilizing the International Space Station U.S. Segment, and to be engaged exclusively in this enterprise without other organizational objectives or responsibilities on behalf of the organization or any parent entity. The head of the office established by subsection (a) is responsible for liaison and management of the agreement. The Administrator shall delegate, at a minimum, the following responsibilities to the organization, which shall carry out its responsibilities in cooperation and consultation with the head of the office established by subsection (a):

(1) Planning and coordinating the ISS National Laboratory research activities.

(2) Development and implementation of guidelines, selection criteria, and flight support requirements for non-NASA scientific utilization of International Space Station research capabilities and facilities available in United States-owned modules or in partner-owned facilities allocated to United States utilization by international agreement.

(3) Interaction with and support of the International Space Station National Laboratory Advisory Committee, established under section 602 of the National Aeronautics and Space Administration Authorization Act of 2008 (42 U.S.C. 17752), and the review and implementation of recommendations provided by that Committee under the terms of the enabling legislation and subsequent organizational documents, negotiation, approval, and implementation of memoranda of understanding, Space Act agreements, or other authorized cooperative mechanisms, with non-NASA United States government entities, academic institutions or consortia, and commercial entities, leading to utilization of the United States International Space Station National Laboratory facilities.

(4) Coordination of transportation requirements in support of the United States International Space Station National Laboratory facilities, including provisions for delivery of instrumentation, logistics support, and related experiment materials, and provisions for return to Earth of collected samples, materials, and scientific instruments in need of replacement or upgrade.

(5) Cooperation with NASA, other Federal Agencies, States, or commercial entities in ensuring the enhancement and sustained operations of non-exploration-related spacestation research payload ground support facilities, including the Space Life Sciences Laboratory, Space Station Processing Facility and Payload Operations Control Center and any other ground facilities critical to the utilization of the International Space Station.

(6) Development and implementation of scientific outreach and education activities designed to ensure effective utilization of International Space Station research capabilities, through such instruments as memoranda of understanding, Space Act agreements executed by NASA, or other cooperative agreements, and through the conduct of scientific assemblies, conferences, etc., for presentation of research findings, methods and mechanisms for dissemination of non-restricted research findings, and development of educational programs, course supplements, interaction with educational programs at all grade levels, including student-focused research opportunities for conduct of research in the United States International Space Station National Laboratory managed facilities.

(c) RESEARCH FACILITIES ALLOCATION AND INTEGRATION OF RESEARCH PAYLOADS.—

(1) ALLOCATION OF ISS RESEARCH FACILITIES.—Beginning as soon as practicable after the date of enactment of this Act, United States International Space Station National Laboratory managed experiments shall be guaranteed access to, and utilization of, 50 percent of the United States research facilities allocation and requisite crew time through fiscal year 2014. Beginning with fiscal year 2015, the percentage allocation shall increase by an additional 10 percent per year through fiscal year 2020.

(2) ADDITIONAL RESEARCH CAPABILITY.—If the head of the ISS Program Office determines that there are NASA research plans that would require research capability beyond the percentage allocation under paragraph (1), those research plans shall be prepared in the form of requested research opportunities submitted to the established process for consideration of proposed research within the allocations and capabilities of the International Space Station National Laboratory, as provided in paragraph (1). These research proposals may include the establishment of partnerships with non-NASA institutions eligible to propose research to be conducted within National laboratory allocated research facilities. Until fiscal year 2020, the head of the Office may grant exceptions to this requirement if the proposed experiment is deemed essential for purposes of preparing for exploration beyond low Earth Orbit, as determined by joint agreement between the organization described in subsection (a) and the head of the office established under subsection (b).

(3) RESEARCH PRIORITIES AND ENHANCED FACILITIES.—The organization described in subsection (b) and the head of the office established under subsection (a) shall take into account recommendations of the National Academies of Science Decadal Survey on Life and Microgravity Sciences in establishing research priorities and in developing proposed enhancements of research facilities and opportunities.

(4) RESEARCH PAYLOAD RESPONSIBILITY.—NASA shall retain its roles and responsibilities in providing research payload transportation integration and operations processes essential to ensure safe and effective flight readiness and vehicle integration of research facilities and activities approved and prioritized by the organization described in subsection (b) and the head of the office established under subsection (a).

SEC. 7. TRANSPORTATION SYSTEMS DEVELOPMENT.

(a) IN GENERAL.—The Administrator shall take steps to ensure that the development of space transportation vehicles, systems, and infrastructure shall occur in such a way as to ensure the availability of complementary and, where necessary, redundant transportation systems capable of delivering crew and cargo to low-Earth orbit, in particular to the International Space Station, and to destinations beyond low-Earth orbit. Systems developed and operated by the United States Government shall be the primary means for delivering crew and cargo to destinations in low-Earth orbit until such time as commercial entities demonstrate, through a successful flight regime, as determined by established milestones within current Space Act Agreements, that they have the capability to deliver cargo to destinations in low-Earth orbit, including the International Space Station. Systems developed and operated by the United States government shall be the primary means for delivering crew and cargo to destinations beyond low earth orbit. Commercially developed launch systems, such as those being developed under NASA's Commercial Orbital Transportation System, for which the United States government will serve primarily as a customer, shall be the primary means for delivering cargo to the International Space Stations once they have successfully demonstrated

that capability, as required by this subsection.

(b) NATIONAL SPACE TRANSPORTATION SYSTEM.—The Administrator is directed to develop a plan, no later than 90 days after the date of enactment of this Act, for the establishment of a National Space Transportation System. The National Space Transportation System shall include—

(1) an architecture of government developed and operated space transportation systems, including one or more launch vehicles and associated crew and cargo carriers;

(2) a streamlined approach to development and acquisition of such systems funded and overseen by the United States Government, including possible adoption or modification of effective acquisition practices utilized by the Department of Defense, where appropriate, to more effectively meet civil space transportation requirements;

(3) an operational concept that utilizes existing government and industry personnel and infrastructure in an efficient and cost effective manner;

(4) continuation or modification of ongoing programs, associated contracts, and testing and evaluation plans initiated under the Constellation Program, including the Orion Crew Exploration Vehicle and the Ares-1 Crew Launch Vehicle, to the extent that such elements are determined to be cost effective and operationally effective;

(5) a plan for incrementally upgrading initially developed and deployed systems so that such systems can be made operational with existing technology at the earliest possible opportunity and then upgraded over time to fulfill more demanding missions and incorporate new technology as it becomes available; and

(6) a United States Government managed approach for overseeing and ensuring crew safety, including oversight of human ratings requirements established under subsection (f)1)(C) of this section.

(c) TECHNOLOGY DEVELOPMENT TO SUPPORT NATIONAL SPACE TRANSPORTATION SYSTEMS EVOLUTION.—The Administrator shall develop and keep up to date a technology development plan to support the evolving requirements of the National Space Transportation System, both for low-Earth orbit requirements and for missions beyond low-Earth orbit. Technology funding provided pursuant to this subsection shall be determined based on the specific mission benefits and the performance requirements needed to achieve clearly identified mission objectives, such as planning to reach destinations beyond low-Earth orbit. There are authorized to be appropriated to the Administrator such amounts for technology funding for propulsion elements as may be necessary to advance the state of the art in propulsion elements as a priority over developments of current state of the art in propulsion systems.

(d) HEAVY-LIFT VEHICLE DEVELOPMENT.—

(1) REVIEW.—As part of the National Space Transportation system required in subsection (b) of this section, the Administrator is directed to conduct a review of alternative heavy lift launch vehicle configurations that may be developed by the United States government to transport crew and cargo to low-Earth orbit and beyond.

(2) CONTENT.—The review shall—

(A) include shuttle-derived vehicles which use existing United States propulsion systems, including liquid fuel engines, external tank, and solid rocket motor technology and related ground-based manufacturing capability, launch and operations infrastructure, and workforce expertise;

(B) take into consideration technologies developed under the Constellation Program, including those developed for the Ares I system;

(C) include consideration of the degree to which alternative vehicles may be developed in an evolutionary fashion with the objective of supporting initial crew and cargo transportation to the International Space Station by the end of 2013 and missions beyond low-Earth orbit by the end of 2018; and

(D) include comparative development and projected operational costs.

(e) NATIONAL SPACE TRANSPORTATION SYSTEM AUTHORITY TO PROCEED.—The Administrator is directed to select a heavy lift launch vehicle and accompanying crew vehicle design concept and to initiate detailed design activities no later than 6 months after the date of enactment of this Act. If ongoing program development elements and activities from the Constellation Program are to be included in such a National Space Transportation System, the Administrator shall take appropriate steps to extend or modify existing contracts to facilitate this objective.

(f) COMMERCIALLY-DEVELOPED SPACE TRANSPORTATION VEHICLES.—

(1) LAUNCH AND DELIVERY SYSTEMS.—The Congress restates its commitment, expressed in the National Aeronautics and Space Administration Acts of 2005 and 2008, to the development of commercially-developed launch and delivery systems to the International Space Station for crew and cargo missions, known as the Commercial Orbital Transportation System.

(2) PRELIMINARY REQUIREMENTS FOR COMMERCIAL CREW CAPABILITY DEVELOPMENT.—Before undertaking any development activity in support of commercially-developed crew transportation systems, the Administrator shall ensure that, at a minimum, the following steps are completed:

(A) HUMAN RATING REQUIREMENTS.—Not later than 60 days after the date of enactment of this Act, the Administrator shall develop and make publicly available detailed human ratings requirements to guide the design of commercially-developed crew transportation capabilities. The requirements shall be at least equivalent to proven requirements in use as of the date of enactment of this Act.

(B) COMMERCIAL MARKET ASSESSMENT.—The Administrator shall initiate, using an appropriate and qualified independent entity, an assessment of the potential non-government market for commercially-developed crew and cargo space transportation systems and capabilities. The assessment shall—

(i) include activities associated with potential private sector utilization of International Space Station research and technology development capabilities and other potential activities in low-Earth orbit; and

(ii) be completed and provided to the committees of jurisdiction no later than 120 days after the date of enactment of this Act.

(C) PROCUREMENT SYSTEM REVIEW.—The Administrator shall review established government procurement and acquisition practices and processes, including Space Act Agreement authorities, to determine the most cost-effective means of procuring commercial crew capabilities and related services which will ensure appropriate accountability, transparency, and maximum efficiency in the procurement of such services. The review shall include a description of proposed measures to address risk management processes and the means of indemnification for third party commercial entities, and processes for quality control, safety oversight, and application of Federal oversight processes within the jurisdiction of other Federal agencies. A description of the proposed procurement process and justification for its selection shall be included in any proposed initiation of procurement activity for commercially-developed crew transportation services and shall be subject to review by the committees of jurisdiction before the initiation of any competitive process to procure such services. In support of the committee review, the Comptroller General shall undertake an assessment of the review required by this subparagraph and provide a report to the committees of jurisdiction within 90 days after the date on which the Administrator provides the description and justification to the committees of jurisdiction.

(D) USE OF GOVERNMENT-SUPPLIED CAPABILITIES AND INFRASTRUCTURE.—In evaluating any proposed development activity for commercially-developed crew or cargo launch capabilities, the Administrator shall identify the anticipated contribution of government personnel, expertise, technologies, and infrastructure to be utilized in support of design, development, or operations of such capabilities. The Administrator shall include details and associated costs of such support as part of any proposed development initiative for the procurement of commercially-developed crew or cargo capabilities or services.

(E) ESTABLISHMENT OF FLIGHT DEMONSTRATION AND READINESS REQUIREMENTS.—The Administrator shall establish appropriate milestones and minimum performance accomplishments which must be completed before any authority is granted to proceed to procurement of commercially-developed crew transportation systems or capabilities.

(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that the development of commercial capabilities for the use of space may be of value in maximizing the utility and productivity of the International Space Station by providing a commercial means of enabling crew transfer and crew rescue services for the International Space Station. The Congress further believes that once such commercial services have demonstrated the capability to meet established ascent, entry, and International Space Station proximity operations safety requirements the United States should make use of domestic commercially-provided crew transfer and crew rescue services to the maximum extent practicable. The Congress further believes that the National Aeronautics and Space Administration should expedite, where possible, the use of domestic commercially provided International Space Station cargo missions, and that upon the certification by appropriate Federal agencies of operational flight readiness for the provision of commercial crew transportation capabilities, the Administrator should limit, to the maximum extent practicable, the use of a United States government crew transportation vehicle to missions carrying crew beyond low Earth orbit.

(4) LIMITATION ON OBLIGATION OR EXPENDITURE OF FUNDS.—No funds authorized to be appropriated by this Act may be obligated or expended for the purpose of procuring a commercially-developed crew transportation vehicle prior to completion of the requirements of paragraph (2) of this subsection.

(g) CARGO RETURN CAPABILITY.—The Administrator is directed to conduct a study of alternative means for development of the capability for a soft-landing return for return research samples or other derivative materials, and small to mid-sized (up to 1,000 kilograms) equipment for return and analysis, or refurbishment and redelivery to the ISS. If the Administrator decides that an independent study is appropriate, the results of the study shall be transmitted to the committees of jurisdiction no later than 120 days after the date of enactment of this Act.

(h) REPORT TO COMMITTEES OF JURISDICTION.—The Administrator shall submit a report to the committees of jurisdiction on

plans for implementing the requirements of this section no later than 90 days after the date of enactment of this act.

SEC. 8. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of NASA.

(2) COMMERCIAL ENTITY.—The term ''commercial entity'' means a for-profit entity operating in such a way that—

(A) private capital is at risk in the provision of a product, activity, or service;

(B) there are existing or potential nongovernmental customers for the product, activity, or service conducted or provided by the entity;

(C) the commercial market ultimately determines the viability of such product, activity, or service; and

(D) primary responsibility and management initiative for the entity resides with the private sector.

(3) COMMITTEES OF JURISDICTION.—The term ''committees of jurisdiction'' means—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Science and Technology of the House of Representatives.

(4) DOWN-MASS.—The term ''down-mass'' means physical elements, such as equipment removed for repair, replacement or analysis, experiment products, samples and devices, tools, personal crew items, manufactured goods, or other non-disposable items, including historically significant materials or items, whether the property of the United States or an international partner, or a nongovernment or commercial entity.

(5) ISS.—The term ''ISS'' means the International Space Station.

(6) ISS NATIONAL LABORATORY.—The term ''ISS National Laboratory'' means the International Space Station United States National Laboratory Enterprise.

(7) LEGISLATIVE DAY.—The term ''legislative day'' means any calendar day on which the Senate and the House of Representatives are in session.

(8) NASA.—The term ''NASA'' means the National Aeronautics and Space Administration.

(9) SPACE ACT.—The term ''Space Act'' means the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.).

(10) UNITED STATES SEGMENT OF THE INTERNATIONAL SPACE STATION.—The term ''United States Segment of the International Space Station'' includes all structural elements, supporting equipment, external attachment locations, pressurized modules, and associated contents, purchased or manufactured by or for the United States, and partner-supplied facilities allocated for utilization as determined through bilateral and multilateral agreements.

(11) UP-MASS.—The term ''up-mass'' means physical elements, such as equipment, spare parts, replacement parts, experimental facilities, and associated materials, and various supplies necessary for the operation and maintenance of the space station vehicle, modules, hardware, and crew support.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) FY 2010.—There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 2010:

(1) Space Science Mission Directorate, $4,493,300,000.

(2) Exploration Systems Mission Directorate, $3,779,800,000.

(3) Space Operations Mission Directorate, $6,180,600,000.

(4) Aeronautics and Space Research and Technology Mission Directorate, $682,200,000.

(5) Education Programs, $183,800,000.

(6) Cross-Agency Support, $2,919,900,000.

(7) Construction and Environmental Compliance and Restoration, $448,300,000.

(8) Office of Inspector General, $35,000,000.

(b) FY 2011.—There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year fiscal year 2011:

(1) Space Science Mission Directorate, $5,005,600,000.

(2) Exploration Systems Mission Directorate, $4,263,400,000.

(3) Space Operations Mission Directorate, $4,887,800,000.

(4) Aeronautics and Space Research and Technology Mission Directorate, $1,151,800,000.

(5) Education Programs, $145,800,000.

(6) Cross-Agency Support, $3,111,400,000.

(7) Construction and Environmental Compliance and Restoration, $397,300,000.

(8) Office of Inspector General, $36,000,000.

(c) FY 2012.—There are authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 2012:

(1) Space Science Mission Directorate, $5,248,600,000.

(2) Exploration Systems Mission Directorate, $4,577,400,000.

(3) Space Operations Mission Directorate, $4,290,200,000.

(4) Aeronautics and Space Research and Technology Mission Directorate, $1,596,900,000.

(5) Education Programs, $145,800,000.

(6) Cross-Agency Support, $3,189,600,000.

(7) Construction and Environmental Compliance and Restoration, $363,800,000.

(8) Office of Inspector General, $36,000,000.

(d) SPACE SHUTTLE SUSTAINING OPERATIONS.—For purposes of implementing section 4, there are authorized to be appropriated an additional $200,000,000 for Space Shuttle operations in fiscal year 2010, $1,200,000,000 for Space Shuttle Operations in fiscal year 2011, and $2,000,000,000 for Space Shuttle Operations in fiscal year 2012.

(e) ISS OPERATIONS.—For purposes of implementing section 5, there are authorized to be appropriated an additional $36,000,000 for fiscal year 2010 for procurement of necessary spares, replacement units, and associated transportation costs of elements necessary to ensure viable sustained vehicle maintenance and operations, $100,000,000 for fiscal year 2011, and $100,000,000 for fiscal year 2012.

(f) ISS UTILIZATION.—For purposes of implementing section 6, there are authorized to be appropriated an additional $20,000,000 in fiscal year 2010, $15,000,000 for fiscal year 2011, and $15,000,000 for fiscal year 2012.

(g) NO FISCAL YEAR LIMITATION ON FUNDING.—All funds appropriated pursuant to this section shall remain available until expended.

(h) TRANSFER OF FUNDS.—The Administrator may transfer funds among any of the accounts identified in this section if, not less than 30 days before the date of any such transfer, the Administrator provides a detailed explanation of the needs for the transfer, the amount proposed to be transferred, and an analysis of the impact on activities from which funding is proposed to be transferred, to the committees of jurisdiction of the House of Representatives and the Senate. No such transfer shall occur until the Administrator has received an affirmative response indicating agreement to the proposed transfer from the chairs of the committees of jurisdiction.

SEC. 10. APPLICATION WITH OTHER LAWS.

The proviso under the heading ''EXPLORATION'', under the heading ''SCIENCE'' in the matter dealing with the National Aeronautics and Space Administration in the Science Appropriations Act, 2010 (title II of division B of the Consolidated Appropriations Act, 2010; Public Law 111–117) shall not apply to any activity authorized under this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 430—COMMENDING THE MEMBERS OF THE 45TH AGRI-BUSINESS DEVELOPMENT TEAM OF THE OKLAHOMA NATIONAL GUARD, FOR THEIR EFFORTS TO MODERNIZE AGRICULTURE AND SUSTAINABLE FARMING PRACTICES IN AFGHANISTAN AND THEIR DEDICATION AND SERVICE TO THE UNITED STATES

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 430

Whereas members of the 1–45th Agri-Business Development Team (ADT) took control of the ADT mission in the Paktya and Paktika provinces of eastern Afghanistan from the 1–16th ADT from the Tennessee National Guard on December 21, 2009, and members of the 2–45th ADT are planned to take over their mission in the summer of 2010;

Whereas the members of the ADT of the Oklahoma National Guard are experts in civilian agriculture practices and will provide important resources to the Afghan population in fostering sustainable agriculture practices, improving food production and processing, providing secure storage facilities and controlled temperature facilities, and ensuring secure and legal economic growth;

Whereas the International Agricultural Program at Oklahoma State University in Stillwater, Oklahoma, has provided valuable training for the 45th ADT pre-deployment and has provided a valuable educational research tool for Guardsmen and women deployed to Afghanistan;

Whereas agriculture accounts for 45 percent of the gross domestic product of Afghanistan and over 80 percent of the population of Afghanistan is engaged in farming and agriculture;

Whereas the 45th ADT works closely with the Provincial Director of Agriculture in Afghanistan to ensure farmers and ranchers in Afghanistan are receiving valuable assistance in rebuilding and restoring the agricultural economy of Afghanistan; and

Whereas the ADTs partner with the United States Department of Agriculture and the United States Agency for International Development (USAID) to provide interagency support to farmers in Afghanistan and are critical to the overall success to the mission in Afghanistan: Now, therefore, be it

Resolved, That the Senate commends the members of the 45th Agri-Business Development Team of the Oklahoma National Guard, for—

(1) their efforts to modernize agriculture and sustainable farming practices in Afghanistan; and

(2) their dedication and service to the United States.

SENATE RESOLUTION 431—EXPRESSING PROFOUND CONCERN, DEEPEST SYMPATHIES, AND SOLIDARITY ON BEHALF OF THE PEOPLE OF THE UNITED STATES TO THE PEOPLE AND GOVERNMENT OF CHILE FOLLOWING THE MASSIVE EARTHQUAKE

Mr. LUGAR (for himself and Mr. KERRY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 431

Whereas the massive 8.8-magnitude earthquake that struck Chile in the early hours of Saturday, February 27, 2010, has claimed approximatley 800 lives, according to government officials of Chile, and the death toll is expected to continue to rise as assessments of the devastation continue;

Whereas the earthquake hit most strongly in 6 central and south regions, from the capital, Santiago, and the nearby port of Valparaíso in central Chile, to the Bernardo O'Higgins, Maule, Bio Bio, and Araucanía regions of the south;

Whereas the regions most strongly hit are home to about 60 percent of the 17,000,000 inhabitants of Chile and account for approximately 70 percent of the gross domestic product of Chile;

Whereas the earthquake generated some tsunami activity, in addition to the earthquake, and several hundred people were killed in the coastal towns of Constitución and Talcahuano as a result;

Whereas many of the villages in the Juan Fernández archipelago were destroyed by tsunami activity;

Whereas the earthquake left an estimated 2,000,000 people homeless and damaged more than 1,000,000 homes, ⅓ of which may have to be demolished;

Whereas the earthquake, classified as a ''megathrust'' earthquake, unleashed an estimated 50 gigatons of energy and broke about 340 miles of the fault zone, according to the United States Geological Survey's National Earthquake Information Center;

Whereas aftershocks have continued, seriously complicating efforts to survey the damage and rescue survivors despite the noble efforts of local teams;

Whereas the Department of Defense has estimated that reconstruction costs could exceed $30,000,000,000, equivalent to 20 percent of the 2009 gross domestic product of Chile;

Whereas damage to ports and other infrastructure will hinder important exports and economic recovery;

Whereas Secretary of State Hillary Clinton visited Chile on March 2, 2010, and promised an extensive aid package, and the United States Ambassador to Chile requested emergency relief funding;

Whereas Chile enjoys excellent relations with the United States since its transition back to democracy, and both countries have emphasized similar priorities in the region, designed to strengthen democracy, improve human rights, and advance free trade;

Whereas Chile and the United States also maintain strong commercial ties, which have become more extensive since a bilateral free trade agreement between the two countries entered into force in 2004;

Whereas since 2004, the Government of Chile has worked with the Government of the United States and the international community as part of the multinational peacekeeping force in Haiti, first as a part of the Multinational Interim Force-Haiti (MIFH) and subsequently as a part of the United Nations Stabilization Mission in Haiti (MINUSTAH), committing more human material resources to MINUSTAH than it has to any previous peacekeeping mission; and

Whereas the Government of Chile and the Government of the United States and other regional partners have worked together in recent years to resolve a number of political issues in the Western Hemisphere, including crises in Venezuela, Bolivia, and Honduras, among others: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its profound concern, deepest sympathies, and solidarity on behalf of the people of the United States to the people and Government of Chile following the massive earthquake;

(2) applauds the friendship between the Governments and people of the United States and Chile and recommits to mutually beneficial cooperation in bilateral, multilateral, and Hemispheric contexts;

(3) strongly encourages the United States Government, with full consideration of the necessary institutional instruments, to offer all appropriate assistance, if requested by the Government of Chile, to aid in the immediate rescue and ongoing recovery efforts undertaken by the Government of Chile; and

(4) encourages the international community to join in relief efforts as determined by the Government of Chile.

SENATE RESOLUTION 432—A BILL SUPPORTING THE GOALS AND IDEALS OF THE YEAR OF THE LUNG 2010

Mrs. LINCOLN (for herself and Mr. CRAPO) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 432

Whereas millions of people around the world struggle each year for life and breath due to lung diseases, including tuberculosis, asthma, pneumonia, influenza, lung cancer and chronic obstructive pulmonary disease (COPD), pulmonary fibrosis, and more than 8,100,000 die each year;

Whereas lung diseases afflict people in every country and every socioeconomic group, but take the heaviest toll on the poor, children, the elderly, and the weak;

Whereas lung disease is a serious public health problem in the United States that affects adults and children of every age and race;

Whereas lower respiratory diseases are the fourth leading cause of death in the United States;

Whereas the economic cost of lung diseases is expected to be $177,000,000,000 in 2009, including $114,000,000,000 in direct health expenditures and $64,000,000,000 in indirect morbidity and mortality costs;

Whereas nearly half of the world's population lives in or near areas with poor air quality, which significantly increases the incidence of lung diseases such as asthma and COPD, and more than 2,000,000 people die prematurely due to indoor and outdoor air pollution;

Whereas tuberculosis, an airborne infection that attacks the lungs and other major organs, is a leading global infectious disease;

Whereas no new drugs have been developed for tuberculosis in more than 5 decades and the only vaccine is nearly a century old, yet there were 9,400,000 new cases in 2008, and this curable disease kills 1,800,000 each year;

Whereas an estimated 12,000,000 adults in the United States, are diagnosed with COPD, and another 12,000,000 have the disease but don't know it;

Whereas COPD kills an estimated 126,000 people in the United States each year, is currently the fourth leading cause of death in the Nation, is the only one of the 4 major causes that is still increasing in prevalence, and is expected to rise to become the third leading cause of death in the United States;

Whereas lung cancer is the second most common cancer in the United States and the most common cause of cancer deaths;

Whereas the leading cause of lung cancer is long-term exposure to tobacco smoke;

Whereas about 23,400,000 people in the United States have asthma, a prevalence which has risen by over 150 percent since 1980;

Whereas asthma is the most common chronic disorder found in children, with 7,000,000 affected;

Whereas flu and pneumonia together are the eighth leading cause of death in the United States;

Whereas about 190,000 people in the United States are affected by acute respiratory distress syndrome (ARDS) each year, a critical illness that results in sudden respiratory system failure, which is fatal in up to 30 percent of cases;

Whereas about 75,000 people in the United States die as a result of acute lung injury, a disease that can be triggered by infection, drowning, traumatic accident, burn injuries, blood transfusions, and inhalation of toxic substances, which kills approximately the same number of people each year as die from breast cancer, colon cancer, and prostate cancer combined;

Whereas of the 10 leading causes of infant mortality in the United States, 4 are lung diseases or have a lung disease component;

Whereas pulmonary fibrosis (PF) is a relentlessly progressive, ultimately fatal disease with a median survival rate of 2.8 years that has no life-saving therapy or cure;

Whereas more than 120,000 people are living with PF in the United States, 48,000 are diagnosed with it each year, and as many as 40,000 die annually, the same as die from breast cancer;

Whereas the cause of sarcoidosis, an inflammatory disease that occurs most often in the lungs and has its highest incidence among young people aged 20 to 29, is unknown;

Whereas 15 years ago, people with pulmonary hypertension lived on average less than 3 years after diagnosis;

Whereas new treatments have improved survival rates and quality of life for those living with this condition, but it remains a severe and often fatal illness;

Whereas Lymphangioleiomyomatosis (LAM), a rare lung disease that affects women exclusively and is also associated with tuberous sclerosis, has no treatment protocol or cure and is often misdiagnosed as asthma or emphysema;

Whereas Hermansky-Pudlak Syndrome, a genetic metabolic disorder which causes albinism, visual impairment, and serious bleeding due to platelet dysfunction, has no cure and no standard of treatment;

Whereas children's interstitial lung disease, a group of rare lung diseases, has many different forms, including surfactant protein deficiency, chronic bronchiolitis, and connective tissue lung disease, and is thus difficult to diagnose and treat;

Whereas the Centers for Disease Control and Prevention estimates that 50,000,000 to 70,000,000 adults in the United States suffer from disorders of sleep and wakefulness;

Whereas insufficient sleep is associated with a number of chronic diseases and conditions, including diabetes, cardiovascular disease, obesity, and depression;

Whereas the average cost of treating severe COPD is 5 times higher than treating mild COPD;

Whereas the appropriate medication and disease management of asthma can reduce health care costs, including hospitalization, emergency room visits, and physician visits, by half;

Whereas the flu vaccine can prevent 60 percent of hospitalizations and 80 percent of deaths from flu-related complications among the elderly;

Whereas advances in medical research have significantly improved the capacity to fight lung disease by providing greater knowledge about its causes, innovative diagnostic tools to detect the disease, and new and improved treatments that help people survive and recover from this disease;

Whereas there is no cure for major lung diseases including asthma, COPD, and lung cancer;

Whereas chronic lung diseases are a leading cause of death and yet the quality of palliative and end-of-life care for patients with chronic lung disease is significantly worse than patients with other terminal illnesses;

Whereas the National Institutes of Health, through its many institutes and centers, through basic, clinical, and translational research, plays a pivotal role in advancing the prevention, detection, treatment, and cure of lung disease;

Whereas the Department of Veterans Affairs is actively engaged in research in respiratory diseases that impact the Nation's veterans;

Whereas the Environmental Protection Agency establishes air quality standard and enforcement programs to ensure the quality of the air we breathe;

Whereas the Centers for Medicare and Medicaid Services, provides essential health insurance benefits for millions of patients with respiratory disorders;

Whereas the Centers for Disease Control and Prevention, through its many centers and programs, provides valuable prevention and surveillance programs on diseases of the lung;

Whereas an international collaboration of medical professional and scientific societies is working to enhance the general public's understanding of respiratory diseases, their causes, prevention, treatment, and impact respiratory disease play in human health; and

Whereas the initiative, The Year of the Lung, seeks to raise awareness about lung health among the public, initiate action in communities worldwide, and advocate for resources to combat lung disease including resources for research and research training programs worldwide: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of the Year of the Lung.

SENATE RESOLUTION 433—SUPPORTING THE GOALS OF ''INTERNATIONAL WOMEN'S DAY''

Mrs. SHAHEEN (for herself, Mr. CARDIN, Mrs. GILLIBRAND, and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 433

Whereas there are more than 3,300,000,000 women in the world;

Whereas women around the world participate in the political, social, and economic life of their communities and play the predominant role in providing and caring for their families;

Whereas women, as both farmers and caregivers, play a leading role in advancing food security for their families and communities;

Whereas the ability of women to realize their full potential is critical to the ability of a nation to achieve strong and lasting economic growth and political stability;

Whereas according to the 2009 World Economic Forum Global Gender Gap Report, ''[A] nation's competitiveness depends significantly on whether and how it educates and utilizes its female talent. To maximize its competitiveness and development potential, each country should strive for gender equality—that is, to give women the same rights, responsibilities and opportunities as men.'';

Whereas, also according to the same report, ''Every year of schooling increases a girl's individual earning power by 10% to 20%, while the return on secondary education is even higher, in the 15% to 25% range. Additionally, women reinvest 90%of their income back into the household, whereas men reinvest only 30% to 40%.'';

Whereas according to President Barack Obama, ''Our daughters can contribute just as much to society as our sons, and our common prosperity will be advanced by allowing all humanity—men and women—to reach their full potential.'';

Whereas according to Secretary of State Hillary Rodham Clinton, ''[I]nvesting in the potential of women to lift and lead their societies is one of the best investments we can make.'';

Whereas despite some achievements made by individual women leaders, women around the globe are still vastly underrepresented in high level positions and in national and local legislatures and governments and, according to the Inter-Parliamentary Union, account for only 18.7 percent of national parliamentarians;

Whereas although strides have been made in recent decades, women around the world continue to face significant obstacles in all aspects of their lives including discrimination, gender-based violence, and denial of basic human rights;

Whereas women are responsible for 66 percent of the work done in the world, yet earn only 10 percent of the income earned in the world;

Whereas women account for approximately 70 percent of individuals living in poverty world-wide;

Whereas women account for 64 percent of the 774,000,000 adults world-wide who lack basic literacy skills;

Whereas girls account for 57 percent of the 72,000,000 primary school aged children in the world who do not attend school;

Whereas in Sub-Saharan Africa only 17 percent of girls enroll in secondary school;

Whereas women receive less than 10 percent of all available credit in Africa, own less than 2 percent of the land in the world, and account for only 15 percent of the agricultural extension agents in the world, yet produce the majority of the food crops in the world, including 70 percent of the food crops in Africa;

Whereas women in developing countries are disproportionately affected by global climate change;

Whereas according to the Joint United Nations Programme on HIV/AIDS, women account for 50 percent of HIV or AIDS infections worldwide, and nearly 60 percent of HIV infections in Sub-Saharan Africa;

Whereas according the Department of State, 56 percent of all forced labor victims are women and girls;

Whereas according to the United Nations, 1 in 3 women in the world will be beaten, coerced into sex, or otherwise abused in her lifetime;

Whereas according to the International Center for Research on Women, there are more than 60,000,000 child brides in developing countries, some of whom are as young as 7 years old;

Whereas March 8 is recognized each year as International Women's Day, a global day to celebrate the economic, political, and social achievements of women past, present, and future and a day to recognize the obstacles that women still face in the struggle for equal rights and opportunities; and

Whereas, the United Nations theme for International Women's Day 2010 is ''Equal rights, equal opportunities: Progress for all'': Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of ''International Women's Day'';

(2) recognizes that the economic growth and empowerment of women is inextricably linked to the potential of nations to generate economic growth and sustainable democracy;

(3) recognizes and honors the women in the United States and around the world who have worked throughout history to strive to ensure that women are guaranteed equality and basic human rights;

(4) reaffirms the commitment to end gender-based discrimination in all forms, to end violence against women and girls worldwide; and

(5) encourages the people of the United States to observe International Women's Day with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3358. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

SA 3359. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3360. Mr. BUNNING proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3361. Mr. BUNNING proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3362. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3363. Mr. KERRY (for himself, Ms. SNOWE, Ms. LANDRIEU, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3364. Mr. KERRY (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3365. Mr. WHITEHOUSE (for himself, Mr. KERRY, Mr. LIEBERMAN, Mr. DODD, Mrs. SHAHEEN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3366. Mr. LEMIEUX submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3367. Mr. THUNE (for himself, Mr. ENZI, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3345 submitted by Ms. LANDRIEU and intended to be proposed to the amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3368. Mr. FEINGOLD (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3369. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3370. Mr. ROCKEFELLER (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3371. Mr. ROCKEFELLER (for himself, Mr. SPECTER, and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3372. Mr. MERKLEY (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3373. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3374. Mr. BAYH (for himself, Mrs. LINCOLN, Mr. WICKER, Mr. VITTER, and Mr. BOND) submitted an amendment intended to be proposed to amendment SA 3338 submitted by Mr. THUNE to the amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3375. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3376. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3377. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3378. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3379. Mr. NELSON, of Florida (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3380. Mr. NELSON, of Florida (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3381. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mrs. FEINSTEIN, Mr. BYRD, Mr. ENSIGN, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3382. Ms. STABENOW (for herself, Mr. HATCH, Mr. SCHUMER, Mr. CRAPO, Mr. RISCH, Ms. SNOWE, Mr. BROWN of Ohio, Mr. ENZI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3383. Mr. WICKER (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3384. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3385. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3386. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3387. Mr. DODD submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3388. Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3389. Mr. BURR proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3390. Mr. BURR proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3391. Mr. BROWN, of Massachusetts proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3392. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3393. Mr. BEGICH submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3394. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3395. Mrs. LINCOLN (for herself, Ms. SNOWE, Ms. COLLINS, Ms. STABENOW, Mr. CRAPO, Mr. CORNYN, Ms. CANTWELL, Ms. KLOBUCHAR, Mrs. MURRAY, Mr. ROBERTS, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3396. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3397. Mr. ROCKEFELLER (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3398. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3399. Mr. NELSON, of Florida (for himself and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3400. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3401. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3358. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. SENATE SPENDING DISCLOSURE.

(a) IN GENERAL.—The Secretary of the Senate shall post prominently on the front page of the public website of the Senate (http://www.senate.gov/) the following information:

(1) The total amount of discretionary and direct spending passed by the Senate that has not been paid for, including emergency designated spending or spending otherwise exempted from PAYGO requirements.

(2) The total amount of net spending authorized in legislation passed by the Senate, as scored by CBO.

(3) The number of new government programs created in legislation passed by the Senate.

(4) The totals for paragraphs (1) through (3) as passed by both Houses of Congress and signed into law by the President.

(b) DISPLAY.—The information tallies required by subsection (a) shall be itemized by bill and date, updated weekly, and archived by calendar year.

(c) EFFECTIVE DATE.—The PAYGO tally required by subsection (a)(1) shall begin with the date of enactment of the Statutory Pay-As-You-Go Act of 2010 and the authorization tally required by subsection (a)(2) shall apply to all legislation passed beginning January 1, 2010.

SA 3359. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—PENSION BENEFIT GUARANTY CORPORATION GOVERNANCE IMPROVEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the ''Pension Benefit Guaranty Corporation Governance Improvement Act of 2010''.

SEC. 802. BOARD OF DIRECTORS OF THE PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Section 4002(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(d)) is amended to read as follows:

''(d)(1) The board of directors of the corporation consists of—

''(A) the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce;

''(B) a member that is a representative of employers offering defined benefit plans;

''(C) a member that is a representative of organized labor and employees; and

''(D) 2 other members.

''(2)(A) The members of the board of directors described under subparagraphs (B) through (D) of paragraph (1)—

''(i) shall be appointed by the President by and with the advice and consent of the Senate—

''(I) at the beginning of the second year of the President's term of office, with respect to such members described under subparagraphs (B) and (C) of paragraph (1); and

''(II) at the beginning of the fourth year of the President's term of office, with respect to such members described under subparagraph (D) of paragraph (1); and

''(ii) shall serve for a term of 4 years.

''(B) Not more than 2 members of the board of directors described under subparagraphs (B) through (D) of paragraph (1) shall be affiliated with the same political party.

''(C) Each member of the board of directors described under subparagraphs (B) through (D) of paragraph (1) shall not have a direct financial interest in the decisions of the corporation.

''(3) Each member of the board of directors described under subparagraph (A) of paragraph (1) shall designate in writing an official, not below the level of Assistant Secretary, to serve as the voting representative of such member on the board. Such designation shall be effective until revoked or until a date or event specified therein. Any such representative may refer for board action any matter under consideration by the designating board member.

''(4) The members of the board of directors described under—

''(A) subparagraph (A) of paragraph (1), shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the board; and

''(B) subparagraphs (B) through (D) of paragraph (1) shall, for each day (including traveltime) during which they are attending meetings or conferences of the board or otherwise engaged in the business of the board, be compensated at a rate fixed by the corporation which is not in excess of the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

''(5)(A) The Secretary of Labor is the chairman of the board of directors.

''(B) The President shall designate 1 of the members appointed under paragraph (2) as the vice-chairman of the board of directors.

''(6) The Inspector General of the corporation shall report to the board of directors, and not less than twice a year, shall attend a meeting of the board of directors to provide a report on the activities and findings of the Inspector General, including with respect to monitoring and review of the operations of the corporation.

''(7) The General Counsel of the corporation shall—

''(A) serve as the secretary to the board of directors, and shall advise such board as needed; and

''(B) have overall responsibility for all legal matters affecting the corporation and provide the corporation with legal advice and opinions on all matters of law affecting the corporation, except that the authority of the General Counsel shall not extend to the Office of Inspector General and the independent legal counsel of such Office.

''(8) Notwithstanding any other provision of this Act, the Office of Inspector General and the legal counsel of such Office is independent of the management of the corporation and the General Counsel of the corporation.''.

(b) NUMBER OF MEETINGS; PUBLIC AVAILABILITY.—Section 4002(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(e)) is amended—

(1) by striking ''The board'' and inserting ''(1) The board'';

(2) by striking ''the corporation.'' and inserting ''the corporation, but in no case less than 4 times a year with a quorum of not less than 5 members. Not less than 1 meeting of the board of directors during each year shall be a joint meeting with the advisory committee under subsection (h).''; and

(3) by adding at the end the following:

''(2) The chairman of the board of directors shall make available to the public the minutes from each meeting of the board, unless the chairman designates a meeting or portion of a meeting as closed to the public, based on the confidentiality of the matters to be discussed during such meeting.''.

(c) ADVISORY COMMITTEE.—

(1) ISSUES CONSIDERED BY THE COMMITTEE.—Section 4002(h)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(h)(1)) is amended—

(A) by striking '', and (D)'' and inserting '', (D)''; and

(B) by striking ''time to time.'' and inserting ''time to time, and (E) other issues as determined appropriate by the advisory committee.''.

(2) JOINT MEETING.—Section 4002(h)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(h)(3)) is amended by adding at the end the following: ''Not less than 1 meeting of the advisory committee during each year shall be a joint meeting with the board of directors under subsection (e).''.

SEC. 803. AVOIDING CONFLICTS OF INTEREST.

Section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following:

''(j) The Director of the corporation, and each member of the board of directors described under subparagraphs (B) through (D) of subsection (d)(1), shall agree in writing to recuse him or herself from participation in activities which present a potential conflict of interest or appearance of such conflict, including by not serving on a technical evaluation panel.''.

SEC. 804. SENSE OF CONGRESS.

(a) FORMATION OF COMMITTEES.—It is the sense of Congress that the board of directors of the Pension Benefit Guaranty Corporation established under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by this title, should form committees, including an audit committee and an investment committee, to enhance the overall effectiveness of the board of directors.

(b) RISK MANAGEMENT POSITION.—It is the sense of Congress that the Pension Benefit Guaranty Corporation established under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by this title, should establish a risk management position that evaluates and mitigates the risk that the corporation might experience. The individual in such position should coordinate the risk management efforts of the corporation, explain risks and controls to senior management and the board of directors of the corporation, and make recommendations.

SA 3360. Mr. BUNNING proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

Strike all after the first word and insert the following:

1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Workers, State, and Business Relief Act of 2010''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 101. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES OTHER THAN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property purchased after December 31, 2009.

SEC. 102. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 103. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.

(a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B) is amended by striking ''5-year period'' and inserting ''6-year period''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after December 31, 2009.

SEC. 104. CREDIT FOR REFINED COAL FACILITIES.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 45(d)(8) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 105. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

(a) APPLICABLE PERIOD.—Paragraph (4) of section 45H(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 339 of the American Jobs Creation Act of 2004.

SEC. 106. CREDIT FOR PRODUCING FUEL FROM COKE OR COKE GAS.

(a) IN GENERAL.—Paragraph (1) of section 45K(g) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 107. NEW ENERGY EFFICIENT HOME CREDIT.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to homes acquired after December 31, 2009.

SEC. 108. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

(a) IN GENERAL.—Sections 6426(d)(5), 6426(e)(3), and 6427(e)(6)(C) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 109. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after December 31, 2009.

SEC. 110. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 111. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 112. ADDITIONAL STANDARD DEDUCTION FOR STATE AND LOCAL REAL PROPERTY TAXES.

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 113. DEDUCTION OF STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 114. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 115. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 116. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2009

SEC. 117. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

PART II—LOW-INCOME HOUSING CREDITS

SEC. 121. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR REFUNDABLE CREDITS.—

''(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State's 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, multiplied by

''(B) 10.

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36A,''.

Subtitle C—Business Tax Relief

SEC. 131. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 132. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 133. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subparagraph (F) of section 45D(f)(1) is amended by inserting ''and 2010'' after ''2009''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking ''2014'' and inserting ''2015''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2009.

SEC. 134. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

SEC. 135. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 136. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subsection (f) of section 45P is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2009.

SEC. 137. 5-YEAR DEPRECIATION FOR FARMING BUSINESS MACHINERY AND EQUIPMENT.

(a) IN GENERAL.—Clause (vii) of section 168(e)(3)(B) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 138. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 168(e)(7)(A) is amended by striking ''if such building is placed in service after December 31, 2008, and before January 1, 2010,''.

(2) Paragraph (8) of section 168(e) is amended by striking subparagraph (E).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 139. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 140. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 141. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 142. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 143. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 144. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 145. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 146. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2009.

SEC. 147. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years'', and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 148. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2009.

SEC. 149. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS INCOME.

(a) IN GENERAL.—Subparagraph (K) of section 512(b)(19) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property acquired after December 31, 2009.

SEC. 150. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Paragraph (8) of section 856(c) is amended by striking ''means'' and all that follows and inserting ''means December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (I) of section 856(c)(2) is amended by striking ''the first taxable year beginning after the date of the enactment of this subparagraph'' and inserting ''in a taxable year beginning on or before the termination date''.

(2) Clause (iii) of section 856(c)(5)(H) is amended by inserting ''in taxable years beginning'' after ''dispositions''.

(3) Clause (v) of section 857(b)(6)(D) is amended by inserting ''in a taxable year beginning'' after ''sale''.

(4) Subparagraph (G) of section 857(b)(6) is amended by inserting ''in a taxable year beginning'' after ''In the case of a sale''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SEC. 151. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 152. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act, and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code,

such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

SEC. 153. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 154. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 155. REDUCTION IN CORPORATE RATE FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Paragraph (1) of section 1201(b) is amended by striking ''ending'' and all that follows through ''such date''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1201(b) is amended to read as follows:

''(3) APPLICATION OF SUBSECTION.—The qualified timber gain for any taxable year shall not exceed the qualified timber gain which would be determined by not taking into account any portion of such taxable year after December 31, 2010.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SEC. 156. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 157. EMPOWERMENT ZONE TAX INCENTIVES.

(a) IN GENERAL.—Section 1391 is amended—

(1) by striking ''December 31, 2009'' in subsection (d)(1)(A)(i) and inserting ''December 31, 2010'', and

(2) by striking the last sentence of subsection (h)(2).

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(2) by striking ''2014'' in the heading and inserting ''2015''.

(c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2009.

SEC. 158. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''December 31, 2009'' each place it appears and inserting ''December 31, 2010''.

(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 1400B(e) is amended—

(i) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(ii) by striking ''2014'' in the heading and inserting ''2015''.

(B) PARTNERSHIPS AND S-CORPS.—Paragraph (2) of section 1400B(g) is amended by striking ''December 31, 2014'' and inserting ''December 31, 2015''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

(3) ACQUISITION DATES FOR ZERO-PERCENT CAPITAL GAINS RATE.—The amendments made by subsection (c) shall apply to property acquired or substantially improved after December 31, 2009.

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

SEC. 159. RENEWAL COMMUNITY TAX INCENTIVES.

(a) IN GENERAL.—Subsection (b) of section 1400E is amended—

(1) by striking ''December 31, 2009'' in paragraphs (1)(A) and (3) and inserting ''December 31, 2010'', and

(2) by striking ''January 1, 2010'' in paragraph (3) and inserting ''January 1, 2011''.

(b) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—Paragraph (2) of section 1400F(c) is amended—

(A) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(B) by striking ''2014'' in the heading and inserting ''2015''.

(3) CLERICAL AMENDMENT.—Subsection (d) of section 1400F is amended by striking ''and 'December 31, 2014' for 'December 31, 2014'''.

(c) COMMERCIAL REVITALIZATION DEDUCTION.—

(1) IN GENERAL.—Subsection (g) of section 1400I is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1400I(d)(2) is amended by striking ''after 2001 and before 2010'' and inserting ''which begins after 2001 and before the date referred to in subsection (g)''.

(d) INCREASED EXPENSING UNDER SECTION 179.—Subparagraph (A) of section 1400J(b)(1) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of a renewal community the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A) of section 1400E(b)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) ACQUISITIONS.—The amendments made by subsections (b)(1) and (d) shall apply to acquisitions after December 31, 2009.

(3) COMMERCIAL REVITALIZATION DEDUCTION.—

(A) IN GENERAL.—The amendment made by subsection (c)(1) shall apply to buildings placed in service after December 31, 2009.

(B) CONFORMING AMENDMENT.—The amendment made by subsection (c)(2) shall apply to calendar years beginning after December 31, 2009.

SEC. 160. TEMPORARY INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2009.

SEC. 161. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years'', and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 171. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—Paragraph (13) of section 143(k), as redesignated by subsection (c), is amended by striking ''January 1, 2010'' in subparagraphs (A)(i) and (B)(i) and inserting ''January 1, 2011''.

(c) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in federally declared disasters) as paragraph (13).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by this section shall apply to bonds issued after December 31, 2009.

(2) RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—The amendments made by subsection (b) shall apply with respect to disasters occurring after December 31, 2009.

(3) TECHNICAL AMENDMENT.—The amendment made by subsection (c) shall take effect as if included in section 709 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

SEC. 172. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 165(h)(3)(B)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) $500 LIMITATION.—Paragraph (1) of section 165(h) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to federally declared disasters occurring after December 31, 2009.

(2) $500 LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

SEC. 173. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 168(n)(2)(A)(ii) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

SEC. 174. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 172(j)(1)(A)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

SEC. 175. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Subparagraph (A) of section 198A(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures on account of disasters occurring after December 31, 2009.

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 181. SPECIAL DEPRECIATION ALLOWANCE FOR NONRESIDENTIAL AND RESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 1400L(b)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 182. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Subparagraph (D) of section 1400L(d)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2009.

Subpart B—GO Zone

SEC. 183. SPECIAL DEPRECIATION ALLOWANCE.

(a) IN GENERAL.—Paragraph (6) of section 1400N(d)(6) is amended by striking subparagraph (D).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 184. INCREASE IN REHABILITATION CREDIT.

(a) IN GENERAL.—Subsection (h) of section 1400N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 185. WORK OPPORTUNITY TAX CREDIT WITH RESPECT TO CERTAIN INDIVIDUALS AFFECTED BY HURRICANE KATRINA FOR EMPLOYERS INSIDE DISASTER AREAS.

(a) IN GENERAL.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''4-year'' and inserting ''5-year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2009.

Subpart C—Midwestern Disaster Areas

SEC. 191. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

(a) IN GENERAL.—Section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110-343; 122 Stat. 3918) is amended—

(1) by striking ''January 1, 2010'' both places it appears and inserting ''January 1, 2011'', and

(2) by striking ''December 31, 2009'' both places it appears and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008.

SEC. 192. EXCLUSION OF CANCELLATION OF MORTGAGE INDEBTEDNESS.

(a) IN GENERAL.—Section 702(e)(4)(C) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110-343; 122 Stat. 3918) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after December 31, 2009.

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

SEC. 201. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''February 28, 2010'' each place it appears and inserting ''December 31, 2010'';

(B) in the heading for subsection (b)(2), by striking ''FEBRUARY 28, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in subsection (b)(3), by striking ''July 31, 2010'' and inserting ''May 31, 2011''.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438), is amended—

(A) in paragraph (1)(B), by striking ''February 28, 2010'' and inserting ''December 31, 2010'';

(B) in the heading for paragraph (2), by striking ''FEBRUARY 28, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in paragraph (3), by striking ''August 31, 2010'' and inserting ''June 30, 2011''.

(3) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking ''February 28, 2010'' each place it appears and inserting ''January 1, 2011''; and

(B) in subsection (c), by striking ''July 31, 2010'' and inserting ''June 1, 2011''.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''July 31, 2010'' and inserting ''May 31, 2011''.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking ''1009'' and inserting ''1009(a)(1)''; and

(3) by inserting after subparagraph (C) the following new subparagraph:

''(D) the amendments made by section 201(a)(1) of the American Workers, State, and Business Relief Act of 2010; and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Department of Defense Appropriations Act, 2010 (Public Law 111–118).

Subtitle B—Health Provisions

SEC. 211. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended by striking ''February 28, 2010'' and inserting ''December 31, 2010''.

(b) CLARIFICATIONS RELATING TO SECTION 3001 OF ARRA.—

(1) CLARIFICATION REGARDING COBRA CONTINUATION RESULTING FROM REDUCTIONS IN HOURS.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(A) in paragraph (3)(C), by inserting before the period at the end the following: ''or consists of a reduction of hours followed by such an involuntary termination of employment during such period'';

(B) in paragraph (16)—

(i) by striking clause (ii) of subparagraph (A), and inserting the following:

''(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under subparagraph (D)(ii), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).''; and

(ii) by striking subclause (I) of subparagraph (C)(i), and inserting the following:

''(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the Department of Defense Appropriations Act, 2010; and''; and

(C) by adding at the end the following:

''(17) SPECIAL RULES IN CASE OF INDIVIDUALS LOSING COVERAGE BECAUSE OF A REDUCTION OF HOURS.—

''(A) NEW ELECTION PERIOD.—

''(i) IN GENERAL.—For purposes of the COBRA continuation provisions, in the case of an individual described in subparagraph (C) who did not make (or who made and discontinued) an election of COBRA continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of such individual after the date of the enactment of the American Workers, State, and Business Relief Act of 2010 shall be treated as a qualifying event.

''(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual's continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

''(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual referred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

''(iv) PREEXISTING CONDITIONS.—With respect to an individual referred to in clause (i) who elects COBRA continuation coverage pursuant to such clause, rules similar to the rules in paragraph (4)(C) shall apply.

''(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual's involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

''(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.''.

(2) CLARIFICATION OF PERIOD OF ASSISTANCE.—Subsection (a)(2)(A)(ii)(I) of such section is amended by striking ''of the first month''.

(3) ENFORCEMENT.—Subsection (a)(5) of such section is amended by adding at the end the following: ''In addition to civil actions that may be brought to enforce applicable

provisions of such Act or other laws, the appropriate Secretary or an affected individual may bring a civil action to enforce such determinations and for appropriate relief. In addition, such Secretary may assess a penalty against a plan sponsor or health insurance issuer of not more than $110 per day for each failure to comply with such determination of such Secretary after 10 days after the date of the plan sponsor's or issuer's receipt of the determination.''.

(4) AMENDMENTS RELATING TO SECTION 3001 OF ARRA.—

(A) Subsection (g) of section 35 is amended by striking ''section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(B) Section 139C is amended by striking ''section 3002 of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001 of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(C) Section 6432 is amended—

(i) in subsection (a), by striking ''section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009'';

(ii) in subsection (c)(3), by striking ''section 3002(a)(1)(A) of such Act'' in subsection (c)(3) and inserting ''section 3001(a)(1)(A) of title III of division B of the American Recovery and Reinvestment Act of 2009''; and

(iii) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following new subsection:.

''(e) EMPLOYER DETERMINATION OF QUALIFYING EVENT AS INVOLUNTARY TERMINATION.—For purposes of this section, in any case in which—

''(1) based on a reasonable interpretation of section 3001(a)(3)(C) of division B of the American Recovery and Reinvestment Act of 2009 and administrative guidance thereunder, an employer determines that the qualifying event with respect to COBRA continuation coverage for an individual was involuntary termination of a covered employee's employment, and

''(2) the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee,

the qualifying event for the individual shall be deemed to be involuntary termination of the covered employee's employment.''.

(D) Subsection (a) of section 6720C is amended by striking ''section 3002(a)(2)(C) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a)(2)(C) of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(c) RULES RELATING TO 2010 EXTENSION.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by subsection (b)(1)(C), is further amended by adding at the end the following:

''(18) RULES RELATED TO 2010 EXTENSION.—

''(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual's 2010 transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

''(i) such individual's qualifying event was on or after March 1, 2010 and prior to the date of enactment of this paragraph, and

''(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under paragraph (16)(D)(ii) (as applied by subparagraph (D) of this paragraph), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).

''(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual's 2010 transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

''(C) 2101 TRANSITION PERIOD.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'transition period' means, with respect to any assistance eligible individual, any period of coverage if—

''(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the American Workers, State, and Business Relief Act of 2010, and

''(II) paragraph (1)(A) applies to such period by reason of the amendments made by section 211 of the American Workers, State, and Business Relief Act of 2010.

''(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph, irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

''(D) NOTIFICATION.—Notification provisions similar to the provisions of paragraph (16)(E) shall apply for purposes of this paragraph.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 to which they relate, except that—

(1) the amendments made by subsections (b)(1) shall apply to periods of coverage beginning after the date of the enactment of this Act; and

(2) the amendments made by paragraphs (2) and (3) of subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 212. EXTENSION OF THERAPY CAPS EXCEPTIONS PROCESS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

SEC. 213. TREATMENT OF PHARMACIES UNDER DURABLE MEDICAL EQUIPMENT ACCREDITATION REQUIREMENTS.

(a) IN GENERAL.—Section 1834(a)(20) of the Social Security Act (42 U.S.C. 1395m(a)(20)) is amended—

(1) in subparagraph (F)—

(A) in clause (i)—

(i) by striking ''clause (ii)'' and inserting ''clauses (ii) and (iii)'';

(ii) by striking ''January 1, 2010'' and inserting ''January 1, 2011''; and

(iii) by striking ''and'' at the end;

(B) in clause (ii)(II), by striking the period at the end and inserting ''; and''; and

(C) by inserting after clause (ii)(II) the following new clause:

''(iii)(I) subject to subclause (II), with respect to items and services furnished on or after January 1, 2011, the accreditation requirement of clause (i) shall not apply to a pharmacy described in subparagraph (G); and

''(II) effective with respect to items and services furnished on or after the date of the enactment of this subparagraph, the Secretary may apply to pharmacies quality standards and an accreditation requirement established by the Secretary that are an alternative to the quality standards and accreditation requirement otherwise applicable under this paragraph if the Secretary determines such alternative quality standards and accreditation requirement are appropriate for pharmacies.''; and

(D) by adding at the end the following flush sentence:

''If determined appropriate by the Secretary, any alternative quality standards and accreditation requirement established under clause (iii)(II) may differ for categories of pharmacies established by the Secretary (such as pharmacies described in subparagraph (G)).''; and

(2) by adding at the end the following new subparagraph:

''(G) PHARMACY DESCRIBED.—A pharmacy described in this subparagraph is a pharmacy that meets each of the following criteria:

''(i) The total billings by the pharmacy for such items and services under this title are less than 5 percent of total pharmacy sales for a previous period (of not less than 24 months) specified by the Secretary.

''(ii) The pharmacy has been enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies, has been issued (which may include the renewal of) a provider number for at least 2 years, and for which a final adverse action (as defined in section 424.57(a) of title 42, Code of Federal Regulations) has not been imposed in the past 2 years.

''(iii) The pharmacy submits to the Secretary an attestation, in a form and manner, and at a time, specified by the Secretary, that the pharmacy meets the criteria described in clauses (i) and (ii).

''(iv) The pharmacy agrees to submit materials as requested by the Secretary, or during the course of an audit conducted on a random sample of pharmacies selected annually, to verify that the pharmacy meets the criteria described in clauses (i) and (ii). Materials submitted under the preceding sentence shall include a certification by an independent accountant on behalf of the pharmacy or the submission of tax returns filed by the pharmacy during the relevant periods, as requested by the Secretary.''.

(b) CONFORMING AMENDMENTS.—Section 1834(a)(20)(E) of the Social Security Act (42 U.S.C. 1395m(a)(20)(E)) is amended—

(1) in the first sentence, by striking ''The'' and inserting ''Except as provided in the third sentence, the''; and

(2) by adding at the end the following new sentences: ''Notwithstanding the preceding sentences, any alternative quality standards and accreditation requirement established under subparagraph (F)(iii)(II) shall be established through notice and comment rulemaking. The Secretary may implement by program instruction or otherwise subparagraph (G) after consultation with representatives of relevant parties. The specifications developed by the Secretary in order to implement subparagraph (G) shall be posted on the Internet website of the Centers for Medicare & Medicaid Services.''.

(c) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to this section.

(d) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this section shall be construed as affecting the application of an accreditation requirement for pharmacies to qualify for bidding in a competitive acquisition area under section 1847 of the Social Security Act (42 U.S.C. 1395w–3).

(e) WAIVER OF 1-YEAR REENROLLMENT BAR.—In the case of a pharmacy described in subparagraph (G) of section 1834(a)(20) of the Social Security Act, as added by subsection (a), whose billing privileges were revoked prior to January 1, 2011, by reason of noncompliance with subparagraph (F)(i) of such section, the Secretary of Health and Human Services shall waive any reenrollment bar imposed pursuant to section 424.535(d) of title 42, Code of Federal Regulations (as in effect on the date of the enactment of this Act) for such pharmacy to reapply for such privileges.

SEC. 214. ENHANCED PAYMENT FOR MENTAL HEALTH SERVICES.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

SEC. 215. EXTENSION OF AMBULANCE ADD-ONS.

(a) IN GENERAL.—Section 1834(l)(13) of the Social Security Act (42 U.S.C. 1395m(l)(13)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''; and

(B) in each of clauses (i) and (ii), by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''.

(b) AIR AMBULANCE IMPROVEMENTS.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''ending on December 31, 2009'' and inserting ''ending on December 31, 2010''.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended—

(1) in the first sentence, by striking ''2010'' and inserting ''2011''; and

(2) by adding at the end the following new sentence: ''For purposes of applying this subparagraph for ground ambulance services furnished on or after January 1, 2010, and before January 1, 2011, the Secretary shall use the percent increase that was applicable under this subparagraph to ground ambulance services furnished during 2009.''.

SEC. 216. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)) is amended by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''.

SEC. 217. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), and section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''and 2009'' and inserting ''2009, and 2010''.

SEC. 218. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

(a) IN GENERAL.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''2010''and inserting ''2011''; and

(B) in the second sentence, by striking ''or 2009'' and inserting '', 2009, or 2010''; and

(2) in subclause (III), by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) PERMITTING ALL SOLE COMMUNITY HOSPITALS TO BE ELIGIBLE FOR HOLD HARMLESS.—Section 1833(t)(7)(D)(i)(III) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)(III)) is amended by adding at the end the following new sentence: ''In the case of covered OPD services furnished on or after January 1, 2010, and before January 1, 2011, the preceding sentence shall be applied without regard to the 100-bed limitation.''.

SEC. 219. EHR CLARIFICATION.

(a) QUALIFICATION FOR CLINIC-BASED PHYSICIANS.—

(1) MEDICARE.—Section 1848(o)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–4(o)(1)(C)(ii)) is amended by striking ''setting (whether inpatient or outpatient)'' and inserting ''inpatient or emergency room setting''.

(2) MEDICAID.—Section 1903(t)(3)(D) of the Social Security Act (42 U.S.C. 1396b(t)(3)(D)) is amended by striking ''setting (whether inpatient or outpatient)'' and inserting ''inpatient or emergency room setting''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the HITECH Act (included in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5)).

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction or otherwise.

SEC. 220. EXTENSION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.

Section 1880(e)(1)(A) of the Social Security Act (42 U.S.C. 1395qq(e)(1)(A)) is amended by striking ''5-year period'' and inserting ''6-year period''.

SEC. 221. EXTENSION OF CERTAIN PAYMENT RULES FOR LONG-TERM CARE HOSPITAL SERVICES AND OF MORATORIUM ON THE ESTABLISHMENT OF CERTAIN HOSPITALS AND FACILITIES.

(a) EXTENSION OF CERTAIN PAYMENT RULES.—Section 114(c) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395ww note), as amended by section 4302(a) of the American Recovery and Reinvestment Act (Public Law 111–5), is amended by striking ''3-year period'' each place it appears and inserting ''4-year period''.

(b) EXTENSION OF MORATORIUM.—Section 114(d)(1) of such Act (42 U.S.C. 1395ww note), as amended by section 4302(b) of the American Recovery and Reinvestment Act (Public Law 111–5), in the matter preceding subparagraph (A), is amended by striking ''3-year period'' and inserting ''4-year period''.

SEC. 222. EXTENSION OF THE MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

Section 1820(j) of the Social Security Act (42 U.S.C. 1395i–4(j)) is amended—

(1) by striking ''2010, and for'' and inserting ''2010, for''; and

(2) by inserting ''and for making grants to all States under subsection (g), such sums as may be necessary in fiscal year 2011, to remain available until expended'' before the period at the end.

SEC. 223. EXTENSION OF SECTION 508 HOSPITAL RECLASSIFICATIONS.

(a) IN GENERAL.—Subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) and section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''September 30, 2009'' and inserting ''September 30, 2010''.

(b) SPECIAL RULE FOR FISCAL YEAR 2010.—For purposes of implementation of the amendment made by subsection (a), including (notwithstanding paragraph (3) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275)) for purposes of the implementation of paragraph (2) of such section 117(a), during fiscal year 2010, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall use the hospital wage index that was promulgated by the Secretary in the Federal Register on August 27, 2009 (74 Fed. Reg. 43754), and any subsequent corrections.

SEC. 224. TECHNICAL CORRECTION RELATED TO CRITICAL ACCESS HOSPITAL SERVICES.

(a) IN GENERAL.—Subsections (g)(2)(A) and (l)(8) of section 1834 of the Social Security Act (42 U.S.C. 1395m) are each amended by inserting ''101 percent of'' before ''the reasonable costs''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 405(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2266).

SEC. 225. EXTENSION FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.

(a) IN GENERAL.—Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)) is amended by striking ''2011'' and inserting ''2012''.

(b) TEMPORARY EXTENSION OF AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPECIAL NEEDS PLANS THAT DO NOT MEET CERTAIN REQUIREMENTS.—Section 164(c)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 226. EXTENSION OF REASONABLE COST CONTRACTS.

Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter preceding subclause (I), by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

SEC. 227. EXTENSION OF PARTICULAR WAIVER POLICY FOR EMPLOYER GROUP PLANS.

For plan year 2011 and subsequent plan years, to the extent that the Secretary of Health and Human Services is applying the 2008 service area extension waiver policy (as modified in the April 11, 2008, Centers for Medicare & Medicaid Services' memorandum with the subject ''2009 Employer Group Waiver-Modification of the 2008 Service Area Extension Waiver Granted to Certain MA Local Coordinated Care Plans'') to Medicare Advantage coordinated care plans, the Secretary shall extend the application of such waiver policy to employers who contract directly with the Secretary as a Medicare Advantage private fee-for-service plan under section 1857(i)(2) of the Social Security Act (42 U.S.C. 1395w–27(i)(2)) and that had enrollment as of January 1, 2010.

SEC. 228. EXTENSION OF CONTINUING CARE RETIREMENT COMMUNITY PROGRAM.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to conduct the Erickson Advantage Continuing Care Retirement Community (CCRC) program under part C of title XVIII of the Social Security Act through December 31, 2011.

SEC. 229. FUNDING OUTREACH AND ASSISTANCE FOR LOW-INCOME PROGRAMS.

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE PROGRAMS.—Subsection (a)(1)(B)

of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b–3 note) is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Centers for Medicare & Medicaid Services Program Management Account—

''(i) for fiscal year 2009, of $7,500,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—Subsection (b)(1)(B) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $7,500,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—Subsection (c)(1)(B) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $5,000,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(d) ADDITIONAL FUNDING FOR CONTRACT WITH THE NATIONAL CENTER FOR BENEFITS AND OUTREACH ENROLLMENT.—Subsection (d)(2) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $5,000,000; and

''(ii) for fiscal year 2010, of $2,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

SEC. 230. FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501(c)(1)(A)(iii) of the Social Security Act (42 U.S.C. 701(c)(1)(A)(iii)) is amended by striking ''fiscal year 2009'' and inserting ''each of fiscal years 2009 through 2011''.

SEC. 231. IMPLEMENTATION FUNDING.

For purposes of carrying out the provisions of, and amendments made by, this title that relate to titles XVIII and XIX of the Social Security Act, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, $100,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 232. EXTENSION OF ARRA INCREASE IN FMAP.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended—

(1) in subsection (a)(3), by striking ''first calendar quarter'' and inserting ''first 3 calendar quarters'';

(2) in subsection (c)—

(A) in paragraph (2)(B), by striking ''July 1, 2010'' and inserting ''January 1, 2011'';

(B) in paragraph (3)(B)(i), by striking ''July 1, 2010'' each place it appears and inserting ''January 1, 2011''; and

(C) in paragraph (4)(C)(ii), by striking ''the 3-consecutive-month period beginning with January 2010'' and inserting ''any 3-consecutive-month period that begins after December 2009 and ends before January 2011'';

(3) in subsection (g)—

(A) in paragraph (1), by striking ''September 30, 2011'' and inserting ''March 31, 2012'';

(B) in paragraph (2)—

(i) by inserting ''of such Act'' after ''1923''; and

(ii) by adding at the end the following new sentence: ''Voluntary contributions by a political subdivision to the non-Federal share of expenditures under the State Medicaid plan or to the non-Federal share of payments under section 1923 of the Social Security Act shall not be considered to be required contributions for purposes of this section.''; and

(C) by adding at the end the following:

''(3) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.''; and

(4) in subsection (h)(3), by striking ''December 31, 2010'' and inserting ''June 30, 2011''.

SEC. 233. EXTENSION OF GAINSHARING DEMONSTRATION.

(a) IN GENERAL.—Subsection (d)(3) of section 5007 of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended by inserting ''(or 21 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010, in the case of a demonstration project in operation as of October 1, 2008)'' after ''December 31, 2009''.

(b) FUNDING.—

(1) IN GENERAL.—Subsection (f)(1) of such section is amended by inserting ''and for fiscal year 2010, $1,600,000,'' after ''$6,000,000,''.

(2) AVAILABILITY.—Subsection (f)(2) of such section is amended by striking ''2010'' and inserting ''2014 or until expended''.

(c) REPORTS.—

(1) QUALITY IMPROVEMENT AND SAVINGS.—Subsection (e)(3) of such section is amended by striking ''December 1, 2008'' and inserting ''18 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010''.

(2) FINAL REPORT.—Subsection (e)(4) of such section is amended by striking ''May 1, 2010'' and inserting ''42 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010''.

Subtitle C—Other Provisions

SEC. 241. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118) is amended—

(1) by striking ''before March 1, 2010''; and

(2) by inserting ''for 2011'' after ''until updated poverty guidelines''.

SEC. 242. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 is amended by adding at the end the following new section:

''SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

''(b) TERMINATION.—Subsection (a) shall not apply to any amount received after December 31, 2010.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 2009.

SEC. 243. STATE COURT IMPROVEMENT PROGRAM.

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended—

(1) in subsection (c)(2)(A), by striking ''2010'' and inserting ''2011''; and

(2) in subsection (e), by striking ''2010'' and inserting ''2011''.

SEC. 244. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111-68), as amended by section 1005 of Public Law 111-118, is further amended by striking ''by substituting'' and all that follows through the period at the end, and inserting ''by substituting December 31, 2010, for the date specified in each such section.''.

SEC. 245. EMERGENCY DISASTER ASSISTANCE.

(a) DEFINITIONS.—Except as otherwise provided in this section, in this section:

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

(B) EXCLUSION.—The term ''disaster county'' does not include a contiguous county.

(2) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2009 calendar year, as determined by the Secretary—

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

(B) experienced a substantial price increase of feed costs above the previous 5-year average.

(3) ELIGIBLE PRODUCER.—The term ''eligible producer'' means an agricultural producer in a disaster county.

(4) ELIGIBLE SPECIALTY CROP PRODUCER.—The term ''eligible specialty crop producer'' means an agricultural producer that, for the 2009 crop year, as determined by the Secretary—

(A) produced, or was prevented from planting, a specialty crop; and

(B) experienced crop losses in a disaster county due to excessive rainfall or related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(7) SPECIALTY CROP.—The term ''specialty crop'' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note).

(b) SUPPLEMENTAL DIRECT PAYMENT.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use such sums as are necessary to make supplemental payments under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753) to eligible producers on farms located in disaster counties that had at least 1 crop of economic significance (other than crops intended for grazing) suffer at least a 5-percent crop loss due to a natural disaster, including quality losses, as determined by the Secretary, in an amount equal to 90 percent of the direct payment the eligible producers received for the 2009 crop year on the farm.

(2) ACRE PROGRAM.—Eligible producers that received payments under section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 90 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

(3) INSURANCE REQUIREMENT.—As a condition of receiving assistance under this subsection, eligible producers on a farm that—

(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (other than for a crop insurance pilot program under that Act) for each crop of economic significance (other than crops intended for grazing), shall obtain such a policy or plan for those crops for the next available crop year, as determined by the Secretary; or

(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for each crop of economic significance (other than crops intended for grazing), shall obtain such coverage for those crops for the next available crop year, as determined by the Secretary.

(4) RELATIONSHIP TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(c) SPECIALTY CROP ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $150,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to excessive rainfall and related conditions affecting the 2009 crops.

(2) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties with excessive rainfall and related conditions on a pro rata basis based on the value of specialty crop losses in those counties during the 2008 calendar year, as determined by the Secretary.

(B) TIMING.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(C) MAXIMUM GRANT.—The maximum amount of a grant made to a State under this subsection may not exceed $40,000,000.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible specialty crop producers;

(B) provide assistance to eligible specialty crop producers not later than 90 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(5) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(d) COTTONSEED ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $42,000,000 to provide supplemental assistance to eligible producers and first-handlers of the 2009 crop of cottonseed in a disaster county.

(2) GENERAL TERMS.—Except as otherwise provided in this subsection, the Secretary shall provide disaster assistance under this subsection under the same terms and conditions as assistance provided under section 3015 of the Emergency Agricultural Disaster Assistance Act of 2006 (title III of Public Law 109-234; 120 Stat. 477).

(3) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

(A) the payment rate, as determined under paragraph (4); and

(B) the county-eligible production, as determined under paragraph (5).

(4) PAYMENT RATE.—The payment rate shall be equal to the quotient obtained by dividing—

(A) the sum of the county-eligible production, as determined under paragraph (5); by

(B) the total funds made available to carry out this subsection.

(5) COUNTY-ELIGIBLE PRODUCTION.—The county-eligible production shall be equal to the product obtained by multiplying—

(A) the number of acres planted to cotton in the disaster county, as reported to the Secretary by first-handlers;

(B) the expected cotton lint yield for the disaster county, as determined by the Secretary based on the best available information; and

(C) the national average seed-to-lint ratio, as determined by the Secretary based on the best available information for the 5 crop years immediately preceding the 2009 crop, excluding the year in which the average ratio was the highest and the year in which the average ratio was the lowest in such period.

(e) AQUACULTURE ASSISTANCE.—

(1) GRANT PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $25,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2009 calendar year.

(B) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible aquaculture producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(C) PROVISION OF GRANTS.—

(i) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2008 calendar year, as determined by the Secretary.

(ii) TIMING.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(D) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(i) use grant funds to assist eligible aquaculture producers;

(ii) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(iii) not later than 30 days after the date on which the State provides assistance to eligible aquaculture producers, submit to the Secretary a report that describes—

(I) the manner in which the State provided assistance;

(II) the amounts of assistance provided per species of aquaculture; and

(III) the process by which the State determined the levels of assistance to eligible aquaculture producers.

(2) REDUCTION IN PAYMENTS.—An eligible aquaculture producer that receives assistance under this subsection shall not be eligible to receive any other assistance under the supplemental agricultural disaster assistance program established under section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and section 901 of the Trade Act of 1974 (19 U.S.C. 2497) for any losses in 2009 relating to the same species of aquaculture.

(3) REPORT TO CONGRESS.—Not later than 240 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes in detail the manner in which this subsection has been carried out; and

(B) includes the information reported to the Secretary under paragraph (1)(D)(iii).

(f) HAWAII TRANSPORTATION COOPERATIVE.—Notwithstanding any other provision of law, the Secretary shall use $21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) LIVESTOCK FORAGE DISASTER PROGRAM.—

(1) DEFINITION OF DISASTER COUNTY.—In this subsection:

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

(B) INCLUSION.—The term ''disaster county'' includes a contiguous county.

(2) PAYMENTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $50,000,000 to carry out a program to make payments to eligible producers that had grazing losses in disaster counties in calendar year 2009.

(3) CRITERIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), assistance under this subsection shall be determined under the same criteria as are used to carry out the programs under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(B) DROUGHT INTENSITY.—For purposes of this subsection, an eligible producer shall not be required to meet the drought intensity requirements of section 531(d)(3)(D)(ii) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(D)(ii)).

(4) AMOUNT.—Assistance under this subsection shall be in an amount equal to 1 monthly payment using the monthly payment rate under section 531(d)(3)(B) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

(5) RELATION TO OTHER LAW.—An eligible producer that receives assistance under this subsection shall be ineligible to receive assistance for 2009 grazing losses under the program carried out under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)) .

(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—

(1) DEFINITIONS.—In this subsection:

(A) ANNOUNCEMENT DATE.—The term ''announcement date'' means the date on which the Secretary announces the emergency loan program under this subsection.

(B) POULTRY INTEGRATOR.—The term ''poultry integrator'' means a poultry integrator that filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) LOAN PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $75,000,000, to remain available until expended, for the cost of making no-interest emergency loans available to poultry producers that meet the requirements of this subsection.

(B) TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, emergency loans under this subsection shall be subject to such terms and conditions as are determined by the Secretary.

(3) LOANS.—

(A) IN GENERAL.—An emergency loan made to a poultry producer under this subsection shall be for the purpose of providing financing to the poultry producer in response to financial losses associated with the termination or nonrenewal of any contract between the poultry producer and a poultry integrator.

(B) ELIGIBILITY.—

(i) IN GENERAL.—To be eligible for an emergency loan under this subsection, not later than 90 days after the announcement date, a poultry producer shall submit to the Secretary evidence that—

(I) the contract of the poultry producer described in subparagraph (A) was not continued; and

(II) no similar contract has been awarded subsequently to the poultry producer.

(ii) REQUIREMENT TO OFFER LOANS.—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—A poultry producer that receives an emergency loan under this subsection may use the emergency loan proceeds only to repay the amount that the poultry producer owes to any lender.

(B) CONVERSION OF THE LOAN.—A poultry producer that receives an emergency loan under this subsection shall be eligible to have the balance of the emergency loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

(i) ADMINISTRATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this section.

(B) PROCEDURE.—The promulgation of the regulations and administration of this section shall be made without regard to—

(i) the notice and comment provisions of section 553 of title 5, United States Code;

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(C) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this paragraph, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(2) ADMINISTRATIVE COSTS.—Of the funds of the Commodity Credit Corporation, the Secretary may use up to $15,000,000 to pay administrative costs incurred by the Secretary that are directly related to carrying out this Act.

(3) PROHIBITION.—None of the funds of the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974 (19 U.S.C. 2497a) may be used to carry out this Act.

SEC. 246. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Small Business Administration – Business Loans Program Account'', $354,000,000, to remain available through December 31, 2010, for the cost of—

(1) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151), as amended by this section, for loans guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), or section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section; and

(2) loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section,

Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF PROGRAMS.—

(1) FEES.—Section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) is amended by striking ''September 30, 2010'' each place it appears and inserting ''December 31, 2010''.

(2) LOAN GUARANTEES.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking ''February 28, 2010'' and inserting ''December 31, 2010''.

TITLE III—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following subparagraph:

''(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

''(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an 'election year'), then, notwithstanding subparagraphs (A) and (B)—

''(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

''(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

''(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

''(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked

only with the consent of the Secretary of the Treasury. The Secretary of the Treasury shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

''(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

''(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

''(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).''.

(2) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—Section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following paragraph:

''(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

''(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

''(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

''(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

''(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

''(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

''(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

''(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

''(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

''(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

''(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause(ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

''(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'excess employee compensation' means, with respect to any employee for any plan year, the excess (if any) of—

''(I) the aggregate amount includible in income under chapter 1 of the Internal Revenue Code of 1986 for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

''(II) $1,000,000.

''(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

''(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting on or after February 4, 2010, of service recipient stock (within the meaning of section 409A of the Internal Revenue Code of 1986) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1) of such Code) for at least 5 years from the date of such grant.

''(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation provide for the application of this clause in the case of a person other than a corporation.

''(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

''(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is paid.

''(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) of such Code for the taxable year ending during such calendar year, and the term 'compensation' shall include earned income of such individual with respect to such self-employment.

''(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) of such Code for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of—

''(I) the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate fair market value of the stock of the plan sponsor redeemed during the plan year, over

''(II) the adjusted net income (within the meaning of section 4043) of the plan sponsor for the preceding plan year.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 4, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 302(d)(3)) to another member of such group shall not be taken into account under clause (i).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 302(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 4-year period beginning with the election year, and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 7-year period beginning with the election year.

''(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

''(iv) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).''.

(3) CONFORMING AMENDMENTS.—Section 303 of such Act (29 U.S.C. 1083) is amended—

(A) in subsection (c)(1), by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection'', and

(B) in subsection (j)(3), by adding at the end the following:

''(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 430(c) is amended by adding at the end the following subparagraph:

''(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

''(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an 'election year'), then, notwithstanding subparagraphs (A) and (B)—

''(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

''(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

''(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

''(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary, and may be revoked only with the consent of the Secretary. The Secretary shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

''(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

''(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

''(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).''.

(2) INCREASES IN REQUIRED CONTRIBUTIONS IF EXCESS COMPENSATION PAID.—Section 430(c) is amended by adding at the end the following paragraph:

''(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

''(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

''(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

''(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

''(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

''(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

''(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

''(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

''(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

''(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

''(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause(ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

''(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'excess employee compensation' means, with respect to any employee for any plan year, the excess (if any) of—

''(I) the aggregate amount includible in income under this chapter for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

''(II) $1,000,000.

''(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

''(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting on or after February 4, 2010, of service recipient stock (within the meaning of section 409A) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1)) for at least 5 years from the date of such grant.

''(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation provide for the application of this clause in the case of a person other than a corporation.

''(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

''(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is paid.

''(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) for the taxable year ending during such calendar year, and the term 'compensation' shall include earned income of such individual with respect to such self-employment.

''(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of—

''(I) the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate fair market value of the stock of the plan sponsor redeemed during the plan year, over

''(II) the adjusted net income (within the meaning of section 4043 of the Employee Retirement Income Security Act of 1974) of the plan sponsor for the preceding plan year.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 4, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 412(d)(3)) to another member of such group shall not be taken into account under clause (i).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 412(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 4-year period beginning with the election year, and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 7-year period beginning with the election year.

''(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

''(iv) MERGERS AND ACQUISITIONS.—The Secretary shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).''.

(3) CONFORMING AMENDMENTS.—Section 430 is amended—

(A) in subsection (c)(1), by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection'', and

(B) in subsection (j)(3), by adding at the end the following:

''(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 302. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

(a) IN GENERAL.—Title I of the Pension Protection Act of 2006 is amended by redesignating section 107 as section 108 and by inserting the following after section 106:

''SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

''(a) IN GENERAL.—If the plan sponsor of a plan to which section 104, 105, or 106 of this Act applies elects to have this section apply for any eligible plan year (in this section referred to as an 'election year'), section 302 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) shall apply to such year in the manner described in subsection (b) or (c), whichever is specified in the election. All references in this section to 'such Act' or 'such Code' shall be to such Act or such Code as in effect before the amendments made by this subtitle and subtitle B.

''(b) APPLICATION OF 2 AND 7 RULE.—In the case of an election year to which this subsection applies—

''(1) 2-YEAR LOOKBACK FOR DETERMINING DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—For purposes of applying section 302(d)(9) of such Act and section 412(l)(9) of such Code, the funded current liability percentage (as defined in subparagraph (C) thereof) for such plan for such plan year shall be such funded current liability percentage of such plan for the second plan year preceding the first election year of such plan.

''(2) CALCULATION OF DEFICIT REDUCTION CONTRIBUTION.—For purposes of applying section 302(d) of such Act and section 412(l) of such Code to a plan to which such sections apply (after taking into account paragraph (1))—

''(A) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, and

''(B) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

''(c) APPLICATION OF 15-YEAR AMORTIZATION.—In the case of an election year to which this subsection applies, for purposes of applying section 302(d) of such Act and section 412(l) of such Code—

''(1) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code for any pre-effective date plan year beginning with or after the first election year shall be the ratio of—

''(A) the annual installments payable in each year if the increased unfunded new liability for such plan year were amortized over 15 years, using an interest rate equal to the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, to

''(B) the increased unfunded new liability for such plan year, and

''(2) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

''(d) ELECTION.—

''(1) IN GENERAL.—The plan sponsor of a plan may elect to have this section apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan to which section 106 of this Act applies, the plan sponsor may only elect to have this section apply to 1 eligible plan year.

''(2) AMORTIZATION SCHEDULE.—Such election shall specify whether the rules under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects

to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

''(3) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year beginning in 2008 shall only be treated as an eligible plan year if the due date for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this clause.

''(2) PRE-EFFECTIVE DATE PLAN YEAR.—The term 'pre-effective date plan year' means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan.

''(3) INCREASED UNFUNDED NEW LIABILITY.—The term 'increased unfunded new liability' means, with respect to a year, the excess (if any) of the unfunded new liability over the amount of unfunded new liability determined as if the value of the plan's assets determined under subsection 302(c)(2) of such Act and section 412(c)(2) of such Code equaled the product of the current liability of the plan for the year multiplied by the funded current liability percentage (as defined in section 302(d)(8)(B) of such Act and 412(l)(8)(B) of such Code) of the plan for the second plan year preceding the first election year of such plan.

''(4) OTHER DEFINITIONS.—The terms 'unfunded new liability' and 'current liability' shall have the meanings set forth in section 302(d) of such Act and section 412(l) of such Code.''.

(b) ELIGIBLE CHARITY PLANS.—Section 104 of the Pension Protection Act of 2006 is amended—

(1) by striking ''eligible cooperative plan'' wherever it appears in subsections (a) and (b) and inserting ''eligible cooperative plan or an eligible charity plan'', and

(2) by adding at the end the following new subsection:

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the Pension Protection Act of 2006.

(2) ELIGIBLE CHARITY PLAN.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2007, except that a plan sponsor may elect to apply such amendments to plan years beginning after December 31, 2008. Any such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

SEC. 303. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

(1) AMENDMENT TO ERISA.—Section 206(g)(9) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

''(D) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(i) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(I) such percentage, as determined without regard to this subparagraph, or

''(II) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

''(iii) APPLICABLE PROVISION.—For purposes of this subparagraph, the term 'applicable provision' means—

''(I) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(II) paragraph (4).''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(i) such percentage, as determined without regard to this paragraph, or

''(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

''(B) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(i) subparagraph (A) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

''(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term 'applicable provision' means—

''(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(ii) subsection (e).''.

(b) INTERACTION WITH WRERA RULE.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 shall apply to a plan for any plan year in lieu of the amendments made by this section applying to sections 206(g)(4) of the Employee Retirement Income Security Act of 1974 and 436(e) of the Internal Revenue Code of 1986 only to the extent that such section produces a higher adjusted funding target attainment percentage for such plan for such year.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning on or after October 1, 2008.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2007.

Subtitle B—Multiemployer Plans

SEC. 311. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

(1) AMENDMENT TO ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury for purposes of section 165 of the Internal Revenue Code of 1986.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of such 2 plan years the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary of the Treasury shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by such Secretary under section 302(d)(1) and section 412(d)(1) of such Code.

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary for purposes of section 165.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of such 2 plan years the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by the Secretary under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1).

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect as of the first day of the first plan year ending after August 31, 2008, except that any election a plan makes pursuant to this section that affects the plan's funding standard account for the first plan year ending after August 31, 2008, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year.

(2) RESTRICTIONS ON BENEFIT INCREASES.—Notwithstanding paragraph (1), the restrictions on plan amendments increasing benefits in sections 304(b)(8)(D) of such Act and 431(b)(8)(D) of such Code, as added by this section, shall take effect on the date of enactment of this Act.

TITLE IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

SEC. 401. EXCLUSION OF UNPROCESSED FUELS FROM THE CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 40(b)(6) is amended by adding at the end the following new clause:

''(iii) EXCLUSION OF UNPROCESSED FUELS.—The term 'cellulosic biofuel' shall not include any fuel if—

''(I) more than 4 percent of such fuel (determined by weight) is any combination of water and sediment, or

''(II) the ash content of such fuel is more than 1 percent (determined by weight).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

SEC. 402. PROHIBITION ON ALTERNATIVE FUEL CREDIT AND ALTERNATIVE FUEL MIXTURE CREDIT FOR BLACK LIQUOR.

(a) IN GENERAL.—The last sentence of section 6426(d)(2) is amended by striking ''or biodiesel'' and inserting ''biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold or used after December 31, 2009.

Subtitle B—Homebuyer Credit

SEC. 411. TECHNICAL MODIFICATIONS TO HOMEBUYER CREDIT.

(a) EXPANDED DOCUMENTATION REQUIREMENT.—Subsection (d) of section 36, as amended by the Worker, Homeownership, and Business Assistance Act of 2009, is amended—

(1) by striking ''or'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting a comma, and

(3) by adding at the end the following new paragraphs:

''(5) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (c)(6), the taxpayer fails to attach to the return of tax for such taxable year a copy of such property tax bills or other documentation as are required by the Secretary to demonstrate compliance with the requirements of subsection (c)(6), or

''(6) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (h)(2), the taxpayer fails to attach to the return of tax for such taxable year a copy of the binding contract which meets the requirements of subsection (h)(2).''.

(b) MODIFICATION OF EFFECTIVE DATE OF DOCUMENTATION REQUIREMENTS.—Paragraph (2) of section 12(e) of the Worker, Homeownership, and Business Assistance Act of 2009 is amended by striking ''returns for taxable years ending after the date of the enactment of this Act'' and inserting ''returns filed after the date of the enactment of this Act''.

(c) EFFECTIVE DATES.—

(1) DOCUMENTATION REQUIREMENTS.—The amendments made by subsection (a) shall apply to purchases on or after the date of the enactment of this Act.

(2) EFFECTIVE DATE OF WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT.—The amendment made by subsection (b) shall apply to purchases of a principal residence on or after the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

Subtitle C—Economic Substance

SEC. 421. CODIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; PENALTIES.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.—

''(1) APPLICATION OF DOCTRINE.—In the case of any transaction to which the economic substance doctrine is relevant, such transaction shall be treated as having economic substance only if—

''(A) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

''(B) the taxpayer has a substantial purpose (apart from Federal income tax effects) for entering into such transaction.

''(2) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—

''(A) IN GENERAL.—The potential for profit of a transaction shall be taken into account in determining whether the requirements of subparagraphs (A) and (B) of paragraph (1) are met with respect to the transaction only if the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.

''(B) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses shall be taken into account as expenses in determining pre-tax profit under subparagraph (A). The Secretary may issue regulations requiring foreign taxes to be treated as expenses in determining pre-tax profit in appropriate cases.

''(3) STATE AND LOCAL TAX BENEFITS.—For purposes of paragraph (1), any State or local income tax effect which is related to a Federal income tax effect shall be treated in the same manner as a Federal income tax effect.

''(4) FINANCIAL ACCOUNTING BENEFITS.—For purposes of paragraph (1)(B), achieving a financial accounting benefit shall not be taken into account as a purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of Federal income tax.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, paragraph (1) shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(C) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(D) DETERMINATION OF APPLICATION OF DOCTRINE NOT AFFECTED.—The determination of whether the economic substance doctrine is relevant to a transaction shall be made in the same manner as if this subsection had never been enacted.

''(E) TRANSACTION.—The term 'transaction' includes a series of transactions.

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.''.

(b) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (5) the following new paragraph:

''(6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.''.

(2) INCREASED PENALTY FOR NONDISCLOSED TRANSACTIONS.—Section 6662 is amended by adding at the end the following new subsection:

''(i) INCREASE IN PENALTY IN CASE OF NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

''(1) IN GENERAL.—In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.

''(2) NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—For purposes of this subsection, the term 'nondisclosed noneconomic substance transaction' means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts affecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended—

(A) by striking ''section 6662(h)'' and inserting ''subsections (h) or (i) of section 6662''; and

(B) by striking ''GROSS VALUATION MISSTATEMENT PENALTY'' in the heading and inserting ''CERTAIN INCREASED UNDERPAYMENT PENALTIES''.

(c) REASONABLE CAUSE EXCEPTION NOT APPLICABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.—

(1) REASONABLE CAUSE EXCEPTION FOR UNDERPAYMENTS.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking ''paragraph (2)'' in paragraph (4)(A), as so redesignated, and inserting ''paragraph (3)''; and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment which is attributable to one or more transactions described in section 6662(b)(6).''.

(2) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—Subsection (d) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking ''paragraph (2)(C)'' in paragraph (4), as so redesignated, and inserting ''paragraph (3)(C)''; and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a reportable transaction understatement which is attributable to one or more transactions described in section 6662(b)(6).''.

(d) APPLICATION OF PENALTY FOR ERRONEOUS CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUBSTANCE TRANSACTIONS.—Section 6676 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) NONECONOMIC SUBSTANCE TRANSACTIONS TREATED AS LACKING REASONABLE BASIS.—For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as having a reasonable basis.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

(2) UNDERPAYMENTS.—The amendments made by subsections (b) and (c)(1) shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

(3) UNDERSTATEMENTS.—The amendments made by subsection (c)(2) shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

(4) REFUNDS AND CREDITS.—The amendment made by subsection (d) shall apply to refunds and credits attributable to transactions entered into after the date of the enactment of this Act.

Subtitle D—Additional Provisions

SEC. 431. REVISION TO THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1)(A) of the Social Security Act (42 U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), is amended by striking ''$20,740,000,000'' and inserting ''$12,740,000,000''.

TITLE V—SATELLITE TELEVISION EXTENSION

SEC. 501. SHORT TITLE.

This title may be cited as the ''Satellite Television Extension and Localism Act of 2010''.

Subtitle A—Statutory Licenses

SEC. 501. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

SEC. 502. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking ''**superstations and network stations for private home viewing**'' and inserting ''**distant television programming by satellite**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

''119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite.''.

(b) UNSERVED HOUSEHOLD DEFINED.—

(1) IN GENERAL.—Section 119(d)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household's local market and affiliated with that network of—

''(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

''(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;'';

(B) in subparagraph (B)—

(i) by striking ''subsection (a)(14)'' and inserting ''subsection (a)(13),''; and

(ii) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(C) in subparagraph (D), by striking ''(a)(12)'' and inserting ''(a)(11)''.

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

''(14) QUALIFYING DATE.—The term 'qualifying date', for purposes of paragraph (10)(A), means—

''(A) July 1, 2010, for multicast streams that exist on December 31, 2009; and

''(B) January 1, 2011, for all other multicast streams.''.

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).''.

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: ''(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—'';

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and'';

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting after paragraph (1) the following:

''(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.'';

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting ''(including the filing fee specified in paragraph (1)(C))'' after ''shall receive all fees''; and

(B) by striking ''paragraph (4)'' and inserting ''paragraph (5)'';

(6) in paragraph (4), as redesignated—

(A) by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''; and

(7) in paragraph (5), as redesignated, by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(e) ADJUSTMENT OF ROYALTY FEES.—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking ''ANALOG'';

(B) in subparagraph (A)—

(i) by striking ''primary analog transmissions'' and inserting ''primary transmissions''; and

(ii) by striking ''July 1, 2004'' and inserting ''July 1, 2009'';

(C) in subparagraph (B)—

(i) by striking ''January 2, 2005, the Librarian of Congress'' and inserting ''March 1, 2010, the Copyright Royalty Judges''; and

(ii) by striking ''primary analog transmission'' and inserting ''primary transmissions'';

(D) in subparagraph (C), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking ''(i) Voluntary agreements'' and inserting the following:

''(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements''; and

(II) by striking ''that a parties'' and inserting ''that are parties''; and

(ii) in clause (ii)—

(I) by striking ''(ii)(I) Within'' and inserting the following:

''(ii) PROCEDURE FOR ADOPTION OF FEES.—

''(I) PUBLICATION OF NOTICE.—Within'';

(II) in subclause (I), by striking ''an arbitration proceeding pursuant to subparagraph (E)'' and inserting ''a proceeding under subparagraph (F)'';

(III) in subclause (II), by striking ''(II) Upon receiving a request under subclause (I), the Librarian of Congress'' and inserting the following:

''(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges''; and

(IV) in subclause (III)—

(aa) by striking ''(III) The Librarian'' and inserting the following:

''(III) ADOPTION OF FEES.—The Copyright Royalty Judges'';

(bb) by striking ''an arbitration proceeding'' and inserting ''the proceeding under subparagraph (F)''; and

(cc) by striking ''the arbitration proceeding'' and inserting ''that proceeding'';

(F) in subparagraph (E)—

(i) by striking ''Copyright Office'' and inserting ''Copyright Royalty Judges''; and

(ii) by striking ''February 28, 2010'' and inserting ''December 31, 2014''; and

(G) in subparagraph (F)—

(i) in the heading, by striking ''COMPULSORY ARBITRATION'' and inserting '' COPYRIGHT ROYALTY JUDGES PROCEEDING'';

(ii) in clause (i)—

(I) in the heading, by striking ''PROCEEDINGS'' and inserting ''THE PROCEEDING'';

(II) in the matter preceding subclause (I)—

(aa) by striking ''May 1, 2005, the Librarian of Congress'' and inserting ''May 3, 2010, the Copyright Royalty Judges'';

(bb) by striking ''arbitration proceedings'' and inserting ''a proceeding'';

(cc) by striking ''fee to be paid'' and inserting ''fees to be paid'';

(dd) by striking ''primary analog transmission'' and inserting ''the primary transmissions''; and

(ee) by striking ''distributors'' and inserting ''distributors—'';

(III) in subclause (II)—

(aa) by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(bb) by striking ''arbitration''; and

(IV) by amending the last sentence to read as follows: ''Such proceeding shall be conducted under chapter 8.'';

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

''(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—'';

(iv) by amending clause (iii) to read as follows:

''(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.''; and

(v) in clause (iv)—

(I) in the heading, by striking ''FEE'' and inserting ''FEES''; and

(II) by striking ''fee referred to in (iii)'' and inserting ''fees referred to in clause (iii)''.

(2) Paragraph (2) is amended to read as follows:

''(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.''.

(f) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

''(8) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(2) LOCAL MARKET.—Section 119(d)(11) is amended to read as follows:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j).''.

(3) LOW POWER TELEVISION STATION.—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(4) MULTICAST STREAM.—Section 119(d), as amended by paragraph (3), is further amended by adding at the end the following new paragraph:

''(14) MULTICAST STREAM.—The term 'multicast stream' means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.''.

(5) PRIMARY STREAM.—Section 119(d), as amended by paragraph (4), is further amended by adding at the end the following new paragraph:

''(15) PRIMARY STREAM.—The term 'primary stream' means—

''(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

''(B) if there is no stream described in subparagraph (A), then either—

''(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

''(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.''.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking ''which'' each place it appears and inserting ''that''.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking ''superstation'' each place it appears in a heading and each place it appears in text and inserting ''non-network station''; and

(2) by striking ''superstations'' each place it appears in a heading and each place it appears in text and inserting ''non-network stations''.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''(5), (6), and (8)'' and inserting ''(4), (5), and (7)'';

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)'' and inserting ''subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)'';

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

''(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

''(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.''; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking ''under paragraph (3) or''; and

(II) by striking ''paragraph (12)'' and inserting ''paragraph (11)''; and

(B) in subsection (b)(1), by striking the final sentence.

(i) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

''(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005).''.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking ''analog'' each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

''(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the 'distant signal'), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(C) FUTURE APPLICABILITY.—

''(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the 'distant signal') on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.'';

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking ''(C) or (D)'' and inserting ''(B) or (C)''; and

(E) in subparagraph (F) (as redesignated), by inserting ''9-digit'' before ''zip code''.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking ''$5'' and inserting ''$250'';

(B) in subparagraph (B)——

(i) in clause (i), by striking ''$250,000 for each 6-month period'' and inserting ''$2,500,000 for each 3-month period''; and

(ii) in clause (ii), by striking ''$250,000'' and inserting ''$2,500,000''; and

(C) by adding at the end the following flush sentences:

''The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.''.

(4) TECHNICAL AMENDMENT.—Section 119(a)(4) (as redesignated) is amended by striking ''and 509''.

(5) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking ''In this clause'' and inserting ''In this clause,''.

(j) MORATORIUM EXTENSION.—Section 119(e) is amended by striking ''February 28, 2010'' and inserting ''December 31, 2014''.

(k) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking ''of the Code of Federal Regulations'' each place it appears and inserting '', Code of Federal Regulations''; and

(2) in subsection (d)(6), by striking ''or the Direct'' and inserting '', or the Direct''.

SEC. 503. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking ''**BY SATELLITE CARRIERS WITHIN LOCAL MARKETS**'' and inserting ''**OF LOCAL TELEVISION PROGRAMMING BY SATELLITE**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

''122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.''.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

''(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

''(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(A) the secondary transmission is made by a satellite carrier to the public;

''(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

''(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(i) each subscriber receiving the secondary transmission; or

''(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(2) SIGNIFICANTLY VIEWED STATIONS.—

''(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station's local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

''(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

''(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

''(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

''(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

''(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

''(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

''(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

''(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

''(i) on January 1, 2004, were in local markets principally comprised of counties in another State, and

''(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

''(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

''(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

''(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

''(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

''(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.''.

(c) REPORTING REQUIREMENTS.—Section 122(b) is amended—

(1) in paragraph (1), by striking ''station a list'' and all that follows through the end and inserting the following: ''station—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

''(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).''; and

(2) in paragraph (2), by striking ''network a list'' and all that follows through the end and inserting the following: ''network—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

''(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.''.

(d) NO ROYALTY FEE FOR CERTAIN SECONDARY TRANSMISSIONS.—Section 122(c) is amended—

(1) in the heading, by inserting ''FOR CERTAIN SECONDARY TRANSMISSIONS'' after ''REQUIRED''; and

(2) by striking ''subsection (a)'' and inserting ''paragraphs (1), (2), and (3) of subsection (a)''.

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

(1) MODIFICATION TO STATUTORY DAMAGES.—Section 122(f) is amended—

(A) in paragraph (1)(B), by striking ''$5'' and inserting ''$250''; and

(B) in paragraph (2), by striking ''$250,000'' each place it appears and inserting ''$2,500,000''.

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking ''section 119 or'' each place it appears and inserting the following: ''section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to''; and

(B) in subsection (g), by striking ''section 119 or'' and inserting the following: ''section 119, paragraph (2)(A), (3), or (4) of subsection (a), or''.

(f) DEFINITIONS.—Section 122(j) is amended—

(1) in paragraph (1), by striking ''which contracts'' and inserting ''that contracts'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(3) in paragraph (3)—

(A) by redesignating such paragraph as paragraph (4);

(B) in the heading of such paragraph, by inserting ''NON-NETWORK STATION;'' after ''NETWORK STATION;''; and

(C) by inserting '' 'non-network station','' after '' 'network station','';

(4) by inserting after paragraph (2) the following:

''(3) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term 'low power television station' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.'';

(5) by inserting after paragraph (4) (as redesignated) the following:

''(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term 'noncommercial educational broadcast station' means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

''(6) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.''.

SEC. 504. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 111 is amended by inserting at the end the following: ''**OF BROADCAST PROGRAMMING BY CABLE**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

''111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.''.

(b) TECHNICAL AMENDMENT.—Section 111(a)(4) is amended by striking ''; or'' and inserting ''or section 122;''.

(c) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''A cable system whose secondary'' and inserting the following: ''STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary''; and

(ii) by striking ''by regulation—'' and inserting ''by regulation the following:'';

(B) in subparagraph (A)—

(i) by striking ''a statement of account'' and inserting ''A statement of account''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D) and inserting the following:

''(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

''(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

''(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

''(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

''(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

''(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

''(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

''(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

''(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

''(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

''(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

''(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

''(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are $263,800 or less—

''(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which $263,800 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $10,400; and

''(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

''(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than $263,800 but less than $527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

''(i) 0.5 percent of any gross receipts up to $263,800, regardless of the number of distant signal equivalents, if any; and

''(ii) 1 percent of any gross receipts in excess of $263,800, but less than $527,600, regardless of the number of distant signal equivalents, if any.

''(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).'';

(2) in paragraph (2), in the first sentence—

(A) by striking ''The Register of Copyrights'' and inserting the following ''HANDLING OF FEES.—The Register of Copyrights''; and

(B) by inserting ''(including the filing fee specified in paragraph (1)(G))'' after ''shall receive all fees'';

(3) in paragraph (3)—

(A) by striking ''The royalty fees'' and inserting the following: ''DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees'';

(B) in subparagraph (A)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking ''; and'' and inserting a period;

(C) in subparagraph (B)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking ''any such'' and inserting ''Any such'';

(4) in paragraph (4), by striking ''The royalty fees'' and inserting the following: ''PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees''; and

(5) by adding at the end the following new paragraphs:

''(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the '3.75 percent rate' and the 'syndicated exclusivity surcharge', respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

''(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account

filed under this subsection on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

''(A) establish procedures for the designation of a qualified independent auditor—

''(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

''(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

''(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

''(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

''(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor's report and to cure any underpayment identified; and

''(iii) provide an opportunity to remedy any disputed facts or conclusions;

''(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

''(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

''(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.''.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

''(1) PRIMARY TRANSMISSION.—A 'primary transmission' is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.'';

(2) in the second undesignated paragraph—

(A) by striking ''A 'secondary transmission''' and inserting the following:

''(2) SECONDARY TRANSMISSION.—A 'secondary transmission'''; and

(B) by striking '''cable system''' and inserting ''cable system'';

(3) in the third undesignated paragraph—

(A) by striking ''A 'cable system'''' and inserting the following:

''(3) CABLE SYSTEM.—A 'cable system''''; and

(B) by striking ''Territory, Trust Territory, or Possession'' and inserting ''territory, trust territory, or possession of the United States'';

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking ''The 'local service area of a primary transmitter', in the case of a television broadcast station, comprises the area in which such station is entitled to insist'' and inserting the following:

''(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The 'local service area of a primary transmitter', in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted'';

(B) by striking ''76.59 of title 47 of the Code of Federal Regulations'' and inserting the following: ''76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations''; and

(C) by striking ''as defined by the rules and regulations of the Federal Communications Commission,'';

(5) by amending the fifth undesignated paragraph to read as follows:

''(5) DISTANT SIGNAL EQUIVALENT.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), a 'distant signal equivalent'—

''(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

''(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

''(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

''(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

''(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

''(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

''(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.'';

(6) by striking the sixth undesignated paragraph and inserting the following:

''(6) NETWORK STATION.—

''(A) TREATMENT OF PRIMARY STREAM.—The term 'network station' shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream's typical broadcast day.

''(B) TREATMENT OF MULTICAST STREAMS.—The term 'network station' shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

''(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

''(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.'';

(7) by striking the seventh undesignated paragraph and inserting the following:

''(7) INDEPENDENT STATION.—The term 'independent station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.'';

(8) by striking the eighth undesignated paragraph and inserting the following:

''(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term 'noncommercial educational station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(9) by adding at the end the following:

''(9) PRIMARY STREAM.—A 'primary stream' is—

''(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

''(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

''(10) PRIMARY TRANSMITTER.—A 'primary transmitter' is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

''(11) MULTICAST STREAM.—A 'multicast stream' is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream.

''(12) SIMULCAST.—A 'simulcast' is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

''(13) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking ''2005'' each place it appears and inserting ''2015''.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking ''clause'' each place it appears and inserting ''paragraph'';

(B) in subsection (c)(1), by striking ''clauses'' and inserting ''paragraphs''; and

(C) in subsection (e)(1)(F), by striking ''subclause'' and inserting ''subparagraph''.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking ''nonnetwork'' each place it appears and inserting ''non-network''.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking ''second paragraph of subsection (f)'' and inserting ''subsection (f)(2)''.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking ''and'' at the end;

(B) in paragraph (1)(B), by striking ''and'' at the end;

(C) in paragraph (1)(C), by striking ''and'' at the end;

(D) in paragraph (1)(D), by striking ''and'' at the end; and

(E) in paragraph (2)(A), by striking ''and'' at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking '', and each of its variant forms,''; and

(B) in subsection (f), by striking ''and their variant forms''.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking ''three territories'' and inserting ''five entities''.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2010 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PRE-EXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms ''cable system'', ''secondary transmission'', ''multicast stream'', and ''local service area of a primary transmitter'' have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

SEC. 505. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

''(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

''(2) LIMITED TEMPORARY WAIVER.—

''(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

''(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

''(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

''(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(II) shall result in the termination of the waiver issued under subparagraph (A).

''(ii) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

''(I) the degree of control the carrier had over the circumstances that resulted in the failure;

''(II) the quality of the carrier's efforts to remedy the failure; and

''(III) the severity and duration of any service interruption.

''(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

''(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term 'short market' means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

''(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

''(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

''(i) an affidavit that the entity is providing local-into-local service to all DMAs;

''(ii) a request for a waiver of the injunction; and

''(iii) a certification issued pursuant to section 342(a) of Communications Act of 1934.

''(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1).

''(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

''(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

''(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

''(A) CONTINUING OBLIGATIONS.—

''(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

''(ii) COOPERATION WITH GAO EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the Comptroller General in the examination required by subparagraph (B).

''(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

''(i) EXAMINATION AND REPORT.—The Comptroller General shall conduct an examination and publish a report concerning the qualified carrier's compliance with the royalty payment and household eligibility requirements

of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on December 31, 2011.

''(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than October 1, 2011, the qualified carrier shall provide the Comptroller General with all records that the Comptroller General, in consultation with the Register of Copyrights, considers to be directly pertinent to the following requirements under this section:

''(I) Proper calculation and payment of royalties under the statutory license under this section.

''(II) Provision of service under this license to eligible subscribers only.

''(iii) SUBMISSION OF REPORT.—The Comptroller General shall file the report required by clause (i) not later than March 1, 2012, with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

''(iv) EVIDENCE OF INFRINGEMENT.—The Comptroller General shall include in the report a statement of whether the examination by the Comptroller General indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement. The Comptroller General shall consult with the Register of Copyrights in preparing such statement.

''(v) SUBSEQUENT EXAMINATION.—If the report includes the Comptroller General's statement that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the Comptroller General shall, not later than 6 months after the report under clause (i) is published, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The Comptroller General shall file a report on such examination with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv), prepared in consultation with the Register of Copyrights.

''(vi) COMPLIANCE.—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

''(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

''(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

''(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

''(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

''(5) FAILURE TO PROVIDE SERVICE.—

''(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

''(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(ii) impose a fine of not less than $250,000 and not more than $5,000,000.

''(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for noncompliance that reflect—

''(i) the degree of control the entity had over the circumstances that resulted in the failure;

''(ii) the quality of the entity's efforts to remedy the failure and restore service; and

''(iii) the severity and duration of any service interruption.

''(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than $2,500,000.

''(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

''(A) IN GENERAL.—An entity provides 'local-into-local service to all DMAs' if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

''(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

''(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term 'good quality signal' has the meaning given such term under section 342(e)(2) of Communications Act of 1934.''.

SEC. 506. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking ''and'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

''(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

''(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.''; and

(4) by adding at the end the following new sentence: ''Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.''.

SEC. 507. TERMINATION OF LICENSE.

Section 1003(a)(2)(A) of Public Law 111-118 is amended by striking ''February 28, 2010'' and inserting ''December 31, 2014''.

SEC. 508. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this subtitle, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

Subtitle B—Communications Provisions

SEC. 521. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 522. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking ''February 28, 2010'' and inserting ''December 31, 2014''; and

(2) in paragraph (3)(C), by striking ''March 1, 2010'' each place it appears in clauses (ii) and (iii) and inserting ''January 1, 2015''.

SEC. 523. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

''(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

''(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.''.

(b) RULEMAKING REQUIRED.—Within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

SEC. 524. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking ''(3) EFFECTIVE DATE.—No satellite'' and all that follows through ''until January 1, 2002.''; and

(2) by amending subsection (g) to read as follows:

''(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

''(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

''(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).''.

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking ''Such two network stations'' and all that follows through ''more than two network stations.''; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking ''TO ANALOG SIGNALS'';

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking ''ANALOG'';

(II) in clause (i)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''October 1, 2004'' and inserting ''October 1, 2009'';

(III) in the heading for clause (ii), by striking ''ANALOG''; and

(IV) in clause (ii)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''2004'' and inserting ''2009'';

(iii) by amending subparagraph (B) to read as follows:

''(B) RULES FOR OTHER SUBSCRIBERS.—

''(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

''(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

''(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

''(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

''(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.'';

(iv) in subparagraph (C)—

(I) by striking ''analog'';

(II) in clause (i), by striking ''the Satellite Home Viewer Extension and Reauthorization Act of 2004; and'' and inserting the following: ''the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or''; and

(III) by amending clause (ii) to read as follows:

''(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.'';

(v) in subparagraph (D)—

(I) in the heading, by striking ''DIGITAL'';

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

''(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

''(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

''(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

''(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.'';

(V) in clause (ii)—

(aa) by striking ''DIGITAL'' in the heading;

(bb) by striking ''digital'' the first two places such term appears;

(cc) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(dd) by striking '', whether or not such subscriber elects to subscribe to local digital signals'';

(VI) by inserting after clause (ii) the following new clause:

''(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.''; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking ''distant analog signal or'' and all that follows through ''(B), or (D))'' and inserting ''distant signal'';

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

''(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

''(A) PREDICTIVE MODEL.—Within 180 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

''(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06–94 within 180 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.'';

(B) by amending paragraph (4)(A) to read as follows:

''(A) IN GENERAL.—If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.'';

(C) in paragraph (4)(B), by striking ''the signal intensity'' and all that follows through ''United States Code'' and inserting ''such requisite signal intensity standard''; and

(D) in paragraph (4)(E), by striking ''Grade B intensity''.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

SEC. 525. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 523 and section 524 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber's eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms ''local market'', ''low power television station'', ''satellite carrier'', ''subscriber'', and ''television broadcast station'' have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms ''network station'' and ''television network'' have the meanings given such terms in section 339(d) of such Act.

SEC. 526. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

''SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

''(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

''(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

''(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

''(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

''(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

''(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

''(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

''(2) For each designated market area not listed in paragraph (1):

''(A) Identification of each such designated market area and the location of its local receive facility.

''(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

''(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's prelaunch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

''(c) CERTIFICATION ISSUANCE.—

''(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

''(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

''(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

''(e) DEFINITIONS.—For the purposes of this section:

''(1) DESIGNATED MARKET AREA.—The term 'designated market area' has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

''(2) GOOD QUALITY SATELLITE SIGNAL.—

''(A) IN GENERAL.—The term ''good quality satellite signal'' means—

''(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

''(I) models of satellite antennas normally used by the satellite carrier's subscribers; and

''(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

''(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

''(I) the satellite carrier treats all television broadcast stations' signals the same with respect to statistical multiplexer prioritization; and

''(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

''(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier's application for certification under this section.''.

SEC. 527. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

''(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

''(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

''(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

''(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

''(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.''.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE SATELLITE CARRIER.—The term 'eligible satellite carrier' means any satellite carrier that is not a party to a carriage contract that—

''(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

''(B) is in force and effect within 60 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.'';

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

''(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any full-power television broadcast station that—

''(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

''(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.''.

SEC. 528. SAVINGS CLAUSE REGARDING DEFINITIONS.

Nothing in this subtitle or the amendments made by this subtitle shall be construed to affect—

(1) the meaning of the terms ''program related'' and ''primary video'' under the Communications Act of 1934; or

(2) the meaning of the term ''multicast'' in any regulations issued by the Federal Communications Commission.

SEC. 529. STATE PUBLIC AFFAIRS BROADCASTS.

Section 335(b) is amended—

(1) by inserting ''**STATE PUBLIC AFFAIRS,**'' after ''**EDUCATIONAL,**'' in the heading;

(2) by striking paragraph (1) and inserting the following:

''(1) CHANNEL CAPACITY REQUIRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

''(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.'';

(3) in paragraph (5), by striking ''For purposes of the subsection—'' and inserting ''For purposes of this subsection:''; and

(4) by adding at the end of paragraph (5) the following:

''(C) The term 'qualified satellite provider' means any provider of direct broadcast satellite service that—

''(i) provides the retransmission of the State public affairs networks of at least 15 different States;

''(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

''(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

''(D) The term 'State public affairs network' means a non-commercial non-broadcast network or a noncommercial educational television station—

''(i) whose programming consists of information about State government deliberations and public policy events; and

''(ii) that is operated by—

''(I) a State government or subdivision thereof;

''(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

''(III) a cable system.''.

Subtitle C—Reports and Savings Provision

SEC. 531. DEFINITION.

In this subtitle, the term ''appropriate Congressional committees'' means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

SEC. 532. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.

Not later than 1 year after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

SEC. 533. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

SEC. 534. REPORT ON IN-STATE BROADCAST PROGRAMMING.

Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

SEC. 535. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 180th day after the date of the enactment of this Act, and on each succeeding anniversary of such 180th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) FCC STUDY; REPORT.—

(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 (as added by section 526 of this title) within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) DEFINITIONS.—In this section—

(1) the terms ''local market'' and ''satellite carrier'' have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term ''television broadcast station'' has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

SEC. 536. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.

(a) IN GENERAL.—Nothing in this title, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the

Register of Copyrights under this title or title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this title or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

SEC. 537. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.

Unless specifically provided otherwise, this title, and the amendments made by this title, shall take effect on February 27, 2010, and all references to enactment of this Act shall be deemed to refer to such date unless otherwise specified. The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010 and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

Subtitle D—Severability

SEC. 541. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of such provision or amendment to any person or circumstance shall not be affected thereby.

TITLE VI—OTHER PROVISIONS

SEC. 601. INCREASE IN THE MEDICARE PHYSICIAN PAYMENT UPDATE.

Paragraph (10) of section 1848(d) of the Social Security Act, as added by section 1011(a) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), is amended—

(1) in subparagraph (A), by striking ''February 28, 2010'' and inserting ''September 30, 2010''; and

(2) in subparagraph (B), by striking ''March 1, 2010'' and inserting ''October 1, 2010''.

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

SEC. 701. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

(b) EMERGENCY DESIGNATION.—Sections 201, 211, and 232 of this Act are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)) and section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. In the House of Representatives, sections 201, 211, and 232 of this Act are designated as an emergency for purposes of pay-as-you-go principles.

TITLE VIII—OFFSET

SEC. 801. RESCISSION.

(a) UNOBLIGATED AMOUNTS.—Any amounts appropriated or made available and remaining unobligated under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115) (other than under title X of such division A), are hereby rescinded.

(b) DEOBLIGATION.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall deobligate a total of not less than $20,000,000,000 of the amounts appropriated or made available under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115) (other than under title X of such division A)—

(A) that are not expended as of October 1, 2012; or

(B) relating to which the Director determines, on or after October 1, 2012, that the amounts are not being expended for the purpose for which the amounts were appropriated or made available.

(2) RESCISSION.—Any amounts deobligated under paragraph (1) are hereby rescinded.

SA 3361. Mr. BUNNING proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

Strike all after the first word and insert the following:

1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Workers, State, and Business Relief Act of 2010''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property purchased after December 31, 2009.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

(a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B) is amended by striking ''5-year period'' and inserting ''6-year period''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after December 31, 2009.

(a) IN GENERAL .—Subparagraphs (A) and (B) of section 45(d)(8) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2009.

(a) APPLICABLE PERIOD.—Paragraph (4) of section 45H(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 339 of the American Jobs Creation Act of 2004.

(a) IN GENERAL.—Paragraph (1) of section 45K(g) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2009.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to homes acquired after December 31, 2009.

(a) IN GENERAL.—Sections 6426(d)(5), 6426(e)(3), and 6427(e)(6)(C) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after December 31, 2009.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2009

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR REFUNDABLE CREDITS.—

''(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State's 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, multiplied by

''(B) 10.

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36A,''.

Subtitle C—Business Tax Relief

SEC. 131. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 132. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 133. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subparagraph (F) of section 45D(f)(1) is amended by inserting ''and 2010'' after ''2009''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking ''2014'' and inserting ''2015''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2009.

SEC. 134. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

SEC. 135. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 136. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subsection (f) of section 45P is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2009.

SEC. 137. 5-YEAR DEPRECIATION FOR FARMING BUSINESS MACHINERY AND EQUIPMENT.

(a) IN GENERAL.—Clause (vii) of section 168(e)(3)(B) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 138. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 168(e)(7)(A) is amended by striking ''if such building is placed in service after December 31, 2008, and before January 1, 2010,''.

(2) Paragraph (8) of section 168(e) is amended by striking subparagraph (E).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 139. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 140. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 141. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 142. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 143. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 144. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 145. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 146. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2009.

SEC. 147. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years'', and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 148. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2009.

SEC. 149. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS INCOME.

(a) IN GENERAL.—Subparagraph (K) of section 512(b)(19) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property acquired after December 31, 2009.

SEC. 150. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Paragraph (8) of section 856(c) is amended by striking ''means'' and all that follows and inserting ''means December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (I) of section 856(c)(2) is amended by striking ''the first taxable year beginning after the date of the enactment of this subparagraph'' and inserting ''in a taxable year beginning on or before the termination date''.

(2) Clause (iii) of section 856(c)(5)(H) is amended by inserting ''in taxable years beginning'' after ''dispositions''.

(3) Clause (v) of section 857(b)(6)(D) is amended by inserting ''in a taxable year beginning'' after ''sale''.

(4) Subparagraph (G) of section 857(b)(6) is amended by inserting ''in a taxable year beginning'' after ''In the case of a sale''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SEC. 151. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 152. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act, and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code,

such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

SEC. 153. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 154. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 155. REDUCTION IN CORPORATE RATE FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Paragraph (1) of section 1201(b) is amended by striking ''ending'' and all that follows through ''such date''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1201(b) is amended to read as follows:

''(3) APPLICATION OF SUBSECTION.—The qualified timber gain for any taxable year shall not exceed the qualified timber gain which would be determined by not taking into account any portion of such taxable year after December 31, 2010.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SEC. 156. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 157. EMPOWERMENT ZONE TAX INCENTIVES.

(a) IN GENERAL.—Section 1391 is amended—

(1) by striking ''December 31, 2009'' in subsection (d)(1)(A)(i) and inserting ''December 31, 2010'', and

(2) by striking the last sentence of subsection (h)(2).

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(2) by striking ''2014'' in the heading and inserting ''2015''.

(c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2009.

SEC. 158. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''December 31, 2009'' each place it appears and inserting ''December 31, 2010''.

(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 1400B(e) is amended—

(i) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(ii) by striking ''2014'' in the heading and inserting ''2015''.

(B) PARTNERSHIPS AND S-CORPS.—Paragraph (2) of section 1400B(g) is amended by striking ''December 31, 2014'' and inserting ''December 31, 2015''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

(3) ACQUISITION DATES FOR ZERO-PERCENT CAPITAL GAINS RATE.—The amendments made by subsection (c) shall apply to property acquired or substantially improved after December 31, 2009.

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

SEC. 159. RENEWAL COMMUNITY TAX INCENTIVES.

(a) IN GENERAL.—Subsection (b) of section 1400E is amended—

(1) by striking ''December 31, 2009'' in paragraphs (1)(A) and (3) and inserting ''December 31, 2010'', and

(2) by striking ''January 1, 2010'' in paragraph (3) and inserting ''January 1, 2011''.

(b) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—Paragraph (2) of section 1400F(c) is amended—

(A) by striking ''December 31, 2014'' and inserting ''December 31, 2015'', and

(B) by striking ''2014'' in the heading and inserting ''2015''.

(3) CLERICAL AMENDMENT.—Subsection (d) of section 1400F is amended by striking ''and 'December 31, 2014' for 'December 31, 2014''''.

(c) COMMERCIAL REVITALIZATION DEDUCTION.—

(1) IN GENERAL.—Subsection (g) of section 1400I is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1400I(d)(2) is amended by striking ''after 2001 and before 2010'' and inserting ''which begins after 2001 and before the date referred to in subsection (g)''.

(d) INCREASED EXPENSING UNDER SECTION 179.—Subparagraph (A) of section 1400J(b)(1) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of a renewal community the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A) of section 1400E(b)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) ACQUISITIONS.—The amendments made by subsections (b)(1) and (d) shall apply to acquisitions after December 31, 2009.

(3) COMMERCIAL REVITALIZATION DEDUCTION.—

(A) IN GENERAL.—The amendment made by subsection (c)(1) shall apply to buildings placed in service after December 31, 2009.

(B) CONFORMING AMENDMENT.—The amendment made by subsection (c)(2) shall apply to calendar years beginning after December 31, 2009.

SEC. 160. TEMPORARY INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2009.

SEC. 161. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years'', and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 171. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—Paragraph (13) of section 143(k), as redesignated by subsection (c), is amended by striking ''January 1, 2010'' in subparagraphs (A)(i) and (B)(i) and inserting ''January 1, 2011''.

(c) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in federally declared disasters) as paragraph (13).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by this section shall apply to bonds issued after December 31, 2009.

(2) RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—The amendments made by subsection (b) shall apply with respect to disasters occurring after December 31, 2009.

(3) TECHNICAL AMENDMENT.—The amendment made by subsection (c) shall take effect as if included in section 709 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

SEC. 172. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 165(h)(3)(B)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) $500 LIMITATION.—Paragraph (1) of section 165(h) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to federally declared disasters occurring after December 31, 2009.

(2) $500 LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

SEC. 173. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 168(n)(2)(A)(ii) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

SEC. 174. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 172(j)(1)(A)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

SEC. 175. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Subparagraph (A) of section 198A(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures on account of disasters occurring after December 31, 2009.

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 181. SPECIAL DEPRECIATION ALLOWANCE FOR NONRESIDENTIAL AND RESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 1400L(b)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 182. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Subparagraph (D) of section 1400L(d)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2009.

Subpart B—GO Zone

SEC. 183. SPECIAL DEPRECIATION ALLOWANCE.

(a) IN GENERAL.—Paragraph (6) of section 1400N(d)(6) is amended by striking subparagraph (D).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 184. INCREASE IN REHABILITATION CREDIT.

(a) IN GENERAL.—Subsection (h) of section 1400N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 185. WORK OPPORTUNITY TAX CREDIT WITH RESPECT TO CERTAIN INDIVIDUALS AFFECTED BY HURRICANE KATRINA FOR EMPLOYERS INSIDE DISASTER AREAS.

(a) IN GENERAL.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''4-year'' and inserting ''5-year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2009.

Subpart C—Midwestern Disaster Areas

SEC. 191. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

(a) IN GENERAL.—Section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended—

(1) by striking ''January 1, 2010'' both places it appears and inserting ''January 1, 2011'', and

(2) by striking ''December 31, 2009'' both places it appears and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008.

SEC. 192. EXCLUSION OF CANCELLATION OF MORTGAGE INDEBTEDNESS.

(a) IN GENERAL.—Section 702(e)(4)(C) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after December 31, 2009.

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

SEC. 201. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''February 28, 2010'' each place it appears and inserting ''December 31, 2010'';

(B) in the heading for subsection (b)(2), by striking ''FEBRUARY 28, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in subsection (b)(3), by striking ''July 31, 2010'' and inserting ''May 31, 2011''.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438), is amended—

(A) in paragraph (1)(B), by striking ''February 28, 2010'' and inserting ''December 31, 2010'';

(B) in the heading for paragraph (2), by striking ''FEBRUARY 28, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in paragraph (3), by striking ''August 31, 2010'' and inserting ''June 30, 2011''.

(3) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking ''February 28, 2010'' each place it appears and inserting ''January 1, 2011''; and

(B) in subsection (c), by striking ''July 31, 2010'' and inserting ''June 1, 2011''.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''July 31, 2010'' and inserting ''May 31, 2011''.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking ''1009'' and inserting ''1009(a)(1)''; and

(3) by inserting after subparagraph (C) the following new subparagraph:

''(D) the amendments made by section 201(a)(1) of the American Workers, State, and Business Relief Act of 2010; and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Department of Defense Appropriations Act, 2010 (Public Law 111–118).

Subtitle B—Health Provisions

SEC. 211. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended by striking ''February 28, 2010'' and inserting ''December 31, 2010''.

(b) CLARIFICATIONS RELATING TO SECTION 3001 OF ARRA.—

(1) CLARIFICATION REGARDING COBRA CONTINUATION RESULTING FROM REDUCTIONS IN HOURS.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(A) in paragraph (3)(C), by inserting before the period at the end the following: ''or consists of a reduction of hours followed by such an involuntary termination of employment during such period'';

(B) in paragraph (16)—

(i) by striking clause (ii) of subparagraph (A), and inserting the following:

''(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under subparagraph (D)(ii), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).''; and

(ii) by striking subclause (I) of subparagraph (C)(i), and inserting the following:

''(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the Department of Defense Appropriations Act, 2010; and''; and

(C) by adding at the end the following:

''(17) SPECIAL RULES IN CASE OF INDIVIDUALS LOSING COVERAGE BECAUSE OF A REDUCTION OF HOURS.—

''(A) NEW ELECTION PERIOD.—

''(i) IN GENERAL.—For purposes of the COBRA continuation provisions, in the case of an individual described in subparagraph (C) who did not make (or who made and discontinued) an election of COBRA continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of such individual after the date of the enactment of the American Workers, State, and Business Relief Act of 2010 shall be treated as a qualifying event.

''(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual's continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

''(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual referred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

''(iv) PREEXISTING CONDITIONS.—With respect to an individual referred to in clause (i) who elects COBRA continuation coverage pursuant to such clause, rules similar to the rules in paragraph (4)(C) shall apply.

''(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual's involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

''(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.''.

(2) CLARIFICATION OF PERIOD OF ASSISTANCE.—Subsection (a)(2)(A)(ii)(I) of such section is amended by striking ''of the first month''.

(3) ENFORCEMENT.—Subsection (a)(5) of such section is amended by adding at the end the following: ''In addition to civil actions that may be brought to enforce applicable provisions of such Act or other laws, the appropriate Secretary or an affected individual may bring a civil action to enforce such determinations and for appropriate relief. In addition, such Secretary may assess a penalty against a plan sponsor or health insurance issuer of not more than $110 per day for each failure to comply with such determination of such Secretary after 10 days after the date of the plan sponsor's or issuer's receipt of the determination.''.

(4) AMENDMENTS RELATING TO SECTION 3001 OF ARRA.—

(A) Subsection (g) of section 35 is amended by striking ''section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(B) Section 139C is amended by striking ''section 3002 of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001 of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(C) Section 6432 is amended—

(i) in subsection (a), by striking ''section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009'';

(ii) in subsection (c)(3), by striking ''section 3002(a)(1)(A) of such Act'' in subsection (c)(3) and inserting ''section 3001(a)(1)(A) of title III of division B of the American Recovery and Reinvestment Act of 2009''; and

(iii) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following new subsection:.

''(e) EMPLOYER DETERMINATION OF QUALIFYING EVENT AS INVOLUNTARY TERMINATION.—For purposes of this section, in any case in which—

''(1) based on a reasonable interpretation of section 3001(a)(3)(C) of division B of the American Recovery and Reinvestment Act of 2009 and administrative guidance thereunder, an employer determines that the qualifying event with respect to COBRA continuation coverage for an individual was involuntary termination of a covered employee's employment, and

''(2) the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee,

the qualifying event for the individual shall be deemed to be involuntary termination of the covered employee's employment.''.

(D) Subsection (a) of section 6720C is amended by striking ''section 3002(a)(2)(C) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a)(2)(C) of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(c) RULES RELATING TO 2010 EXTENSION.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by subsection (b)(1)(C), is further amended by adding at the end the following:

''(18) RULES RELATED TO 2010 EXTENSION.—

''(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual's 2010 transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

''(i) such individual's qualifying event was on or after March 1, 2010 and prior to the date of enactment of this paragraph, and

''(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under paragraph (16)(D)(ii) (as applied by subparagraph (D) of this paragraph), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).

''(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual's 2010 transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

''(C) 2101 TRANSITION PERIOD.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'transition period' means, with respect to any assistance eligible individual, any period of coverage if—

''(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the American Workers, State, and Business Relief Act of 2010, and

''(II) paragraph (1)(A) applies to such period by reason of the amendments made by section 211 of the American Workers, State, and Business Relief Act of 2010.

''(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph, irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

''(D) NOTIFICATION.—Notification provisions similar to the provisions of paragraph (16)(E) shall apply for purposes of this paragraph.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 to which they relate, except that—

(1) the amendments made by subsections (b)(1) shall apply to periods of coverage beginning after the date of the enactment of this Act; and

(2) the amendments made by paragraphs (2) and (3) of subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 212. EXTENSION OF THERAPY CAPS EXCEPTIONS PROCESS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

SEC. 213. TREATMENT OF PHARMACIES UNDER DURABLE MEDICAL EQUIPMENT ACCREDITATION REQUIREMENTS.

(a) IN GENERAL.—Section 1834(a)(20) of the Social Security Act (42 U.S.C. 1395m(a)(20)) is amended—

(1) in subparagraph (F)—

(A) in clause (i)—

(i) by striking ''clause (ii)'' and inserting ''clauses (ii) and (iii)'';

(ii) by striking ''January 1, 2010'' and inserting ''January 1, 2011''; and

(iii) by striking ''and'' at the end;

(B) in clause (ii)(II), by striking the period at the end and inserting ''; and'';

(C) by inserting after clause (ii)(II) the following new clause:

''(iii)(I) subject to subclause (II), with respect to items and services furnished on or after January 1, 2011, the accreditation requirement of clause (i) shall not apply to a pharmacy described in subparagraph (G); and

''(II) effective with respect to items and services furnished on or after the date of the enactment of this subparagraph, the Secretary may apply to pharmacies quality standards and an accreditation requirement established by the Secretary that are an alternative to the quality standards and accreditation requirement otherwise applicable under this paragraph if the Secretary determines such alternative quality standards and accreditation requirement are appropriate for pharmacies.''; and

(D) by adding at the end the following flush sentence:

''If determined appropriate by the Secretary, any alternative quality standards and accreditation requirement established under clause (iii)(II) may differ for categories of pharmacies established by the Secretary (such as pharmacies described in subparagraph (G)).''; and

(2) by adding at the end the following new subparagraph:

''(G) PHARMACY DESCRIBED.—A pharmacy described in this subparagraph is a pharmacy that meets each of the following criteria:

''(i) The total billings by the pharmacy for such items and services under this title are less than 5 percent of total pharmacy sales for a previous period (of not less than 24 months) specified by the Secretary.

''(ii) The pharmacy has been enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies, has been issued (which may include the renewal of) a provider number for at least 2 years, and for which a final adverse action (as defined in section 424.57(a) of title 42, Code of Federal Regulations) has not been imposed in the past 2 years.

''(iii) The pharmacy submits to the Secretary an attestation, in a form and manner, and at a time, specified by the Secretary, that the pharmacy meets the criteria described in clauses (i) and (ii).

''(iv) The pharmacy agrees to submit materials as requested by the Secretary, or during the course of an audit conducted on a random sample of pharmacies selected annually, to verify that the pharmacy meets the criteria described in clauses (i) and (ii). Materials submitted under the preceding sentence shall include a certification by an independent accountant on behalf of the pharmacy or the submission of tax returns filed by the pharmacy during the relevant periods, as requested by the Secretary.''.

(b) CONFORMING AMENDMENTS.—Section 1834(a)(20)(E) of the Social Security Act (42 U.S.C. 1395m(a)(20)(E)) is amended—

(1) in the first sentence, by striking ''The'' and inserting ''Except as provided in the third sentence, the''; and

(2) by adding at the end the following new sentences: ''Notwithstanding the preceding sentences, any alternative quality standards

and accreditation requirement established under subparagraph (F)(iii)(II) shall be established through notice and comment rulemaking. The Secretary may implement by program instruction or otherwise subparagraph (G) after consultation with representatives of relevant parties. The specifications developed by the Secretary in order to implement subparagraph (G) shall be posted on the Internet website of the Centers for Medicare & Medicaid Services.''.

(c) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to this section.

(d) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this section shall be construed as affecting the application of an accreditation requirement for pharmacies to qualify for bidding in a competitive acquisition area under section 1847 of the Social Security Act (42 U.S.C. 1395w–3).

(e) WAIVER OF 1-YEAR REENROLLMENT BAR.—In the case of a pharmacy described in subparagraph (G) of section 1834(a)(20) of the Social Security Act, as added by subsection (a), whose billing privileges were revoked prior to January 1, 2011, by reason of noncompliance with subparagraph (F)(i) of such section, the Secretary of Health and Human Services shall waive any reenrollment bar imposed pursuant to section 424.535(d) of title 42, Code of Federal Regulations (as in effect on the date of the enactment of this Act) for such pharmacy to reapply for such privileges.

SEC. 214. ENHANCED PAYMENT FOR MENTAL HEALTH SERVICES.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

SEC. 215. EXTENSION OF AMBULANCE ADD-ONS.

(a) IN GENERAL.—Section 1834(l)(13) of the Social Security Act (42 U.S.C. 1395m(l)(13)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''; and

(B) in each of clauses (i) and (ii), by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''.

(b) AIR AMBULANCE IMPROVEMENTS.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''ending on December 31, 2009'' and inserting ''ending on December 31, 2010''.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended—

(1) in the first sentence, by striking ''2010'' and inserting ''2011''; and

(2) by adding at the end the following new sentence: ''For purposes of applying this subparagraph for ground ambulance services furnished on or after January 1, 2010, and before January 1, 2011, the Secretary shall use the percent increase that was applicable under this subparagraph to ground ambulance services furnished during 2009.''.

SEC. 216. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)) is amended by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''.

SEC. 217. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), and section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''and 2009'' and inserting ''2009, and 2010''.

SEC. 218. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

(a) IN GENERAL.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''2010''and inserting ''2011''; and

(B) in the second sentence, by striking ''or 2009'' and inserting '', 2009, or 2010''; and

(2) in subclause (III), by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) PERMITTING ALL SOLE COMMUNITY HOSPITALS TO BE ELIGIBLE FOR HOLD HARMLESS.—Section 1833(t)(7)(D)(i)(III) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)(III)) is amended by adding at the end the following new sentence: ''In the case of covered OPD services furnished on or after January 1, 2010, and before January 1, 2011, the preceding sentence shall be applied without regard to the 100-bed limitation.''.

SEC. 219. EHR CLARIFICATION.

(a) QUALIFICATION FOR CLINIC-BASED PHYSICIANS.—

(1) MEDICARE.—Section 1848(o)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–4(o)(1)(C)(ii)) is amended by striking ''setting (whether inpatient or outpatient)'' and inserting ''inpatient or emergency room setting''.

(2) MEDICAID.—Section 1903(t)(3)(D) of the Social Security Act (42 U.S.C. 1396b(t)(3)(D)) is amended by striking ''setting (whether inpatient or outpatient)'' and inserting ''inpatient or emergency room setting''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the HITECH Act (included in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5)).

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction or otherwise.

SEC. 220. EXTENSION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.

Section 1880(e)(1)(A) of the Social Security Act (42 U.S.C. 1395qq(e)(1)(A)) is amended by striking ''5-year period'' and inserting ''6-year period''.

SEC. 221. EXTENSION OF CERTAIN PAYMENT RULES FOR LONG-TERM CARE HOSPITAL SERVICES AND OF MORATORIUM ON THE ESTABLISHMENT OF CERTAIN HOSPITALS AND FACILITIES.

(a) EXTENSION OF CERTAIN PAYMENT RULES.—Section 114(c) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395ww note), as amended by section 4302(a) of the American Recovery and Reinvestment Act (Public Law 111–5), is amended by striking ''3-year period'' each place it appears and inserting ''4-year period''.

(b) EXTENSION OF MORATORIUM.—Section 114(d)(1) of such Act (42 U.S.C. 1395ww note), as amended by section 4302(b) of the American Recovery and Reinvestment Act (Public Law 111–5), in the matter preceding subparagraph (A), is amended by striking ''3-year period'' and inserting ''4-year period''.

SEC. 222. EXTENSION OF THE MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

Section 1820(j) of the Social Security Act (42 U.S.C. 1395i–4(j)) is amended—

(1) by striking ''2010, and for'' and inserting ''2010, for''; and

(2) by inserting ''and for making grants to all States under subsection (g), such sums as may be necessary in fiscal year 2011, to remain available until expended'' before the period at the end.

SEC. 223. EXTENSION OF SECTION 508 HOSPITAL RECLASSIFICATIONS.

(a) IN GENERAL.—Subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) and section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''September 30, 2009'' and inserting ''September 30, 2010''.

(b) SPECIAL RULE FOR FISCAL YEAR 2010.—For purposes of implementation of the amendment made by subsection (a), including (notwithstanding paragraph (3) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275)) for purposes of the implementation of paragraph (2) of such section 117(a), during fiscal year 2010, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall use the hospital wage index that was promulgated by the Secretary in the Federal Register on August 27, 2009 (74 Fed. Reg. 43754), and any subsequent corrections.

SEC. 224. TECHNICAL CORRECTION RELATED TO CRITICAL ACCESS HOSPITAL SERVICES.

(a) IN GENERAL.—Subsections (g)(2)(A) and (l)(8) of section 1834 of the Social Security Act (42 U.S.C. 1395m) are each amended by inserting ''101 percent of'' before ''the reasonable costs''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 405(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2266).

SEC. 225. EXTENSION FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.

(a) IN GENERAL.—Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)) is amended by striking ''2011'' and inserting ''2012''.

(b) TEMPORARY EXTENSION OF AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPECIAL NEEDS PLANS THAT DO NOT MEET CERTAIN REQUIREMENTS.—Section 164(c)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 226. EXTENSION OF REASONABLE COST CONTRACTS.

Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter preceding subclause (I), by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

SEC. 227. EXTENSION OF PARTICULAR WAIVER POLICY FOR EMPLOYER GROUP PLANS.

For plan year 2011 and subsequent plan years, to the extent that the Secretary of Health and Human Services is applying the 2008 service area extension waiver policy (as modified in the April 11, 2008, Centers for Medicare & Medicaid Services' memorandum with the subject ''2009 Employer Group Waiver-Modification of the 2008 Service Area Extension Waiver Granted to Certain MA Local Coordinated Care Plans'') to Medicare Advantage coordinated care plans, the Secretary shall extend the application of such

waiver policy to employers who contract directly with the Secretary as a Medicare Advantage private fee-for-service plan under section 1857(i)(2) of the Social Security Act (42 U.S.C. 1395w–27(i)(2)) and that had enrollment as of January 1, 2010.

SEC. 228. EXTENSION OF CONTINUING CARE RETIREMENT COMMUNITY PROGRAM.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to conduct the Erickson Advantage Continuing Care Retirement Community (CCRC) program under part C of title XVIII of the Social Security Act through December 31, 2011.

SEC. 229. FUNDING OUTREACH AND ASSISTANCE FOR LOW-INCOME PROGRAMS.

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE PROGRAMS.—Subsection (a)(1)(B) of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b–3 note) is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Centers for Medicare & Medicaid Services Program Management Account—

''(i) for fiscal year 2009, of $7,500,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—Subsection (b)(1)(B) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $7,500,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—Subsection (c)(1)(B) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $5,000,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(d) ADDITIONAL FUNDING FOR CONTRACT WITH THE NATIONAL CENTER FOR BENEFITS AND OUTREACH ENROLLMENT.—Subsection (d)(2) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $5,000,000; and

''(ii) for fiscal year 2010, of $2,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

SEC. 230. FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501(c)(1)(A)(iii) of the Social Security Act (42 U.S.C. 701(c)(1)(A)(iii)) is amended by striking ''fiscal year 2009'' and inserting ''each of fiscal years 2009 through 2011''.

SEC. 231. IMPLEMENTATION FUNDING.

For purposes of carrying out the provisions of, and amendments made by, this title that relate to titles XVIII and XIX of the Social Security Act, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, $100,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 232. EXTENSION OF ARRA INCREASE IN FMAP.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended—

(1) in subsection (a)(3), by striking ''first calendar quarter'' and inserting ''first 3 calendar quarters'';

(2) in subsection (c)—

(A) in paragraph (2)(B), by striking ''July 1, 2010'' and inserting ''January 1, 2011'';

(B) in paragraph (3)(B)(i), by striking ''July 1, 2010'' each place it appears and inserting ''January 1, 2011''; and

(C) in paragraph (4)(C)(ii), by striking ''the 3-consecutive-month period beginning with January 2010'' and inserting ''any 3-consecutive-month period that begins after December 2009 and ends before January 2011'';

(3) in subsection (g)—

(A) in paragraph (1), by striking ''September 30, 2011'' and inserting ''March 31, 2012'';

(B) in paragraph (2)—

(i) by inserting ''of such Act'' after ''1923''; and

(ii) by adding at the end the following new sentence: ''Voluntary contributions by a political subdivision to the non-Federal share of expenditures under the State Medicaid plan or to the non-Federal share of payments under section 1923 of the Social Security Act shall not be considered to be required contributions for purposes of this section.''; and

(C) by adding at the end the following:

''(3) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.''; and

(4) in subsection (h)(3), by striking ''December 31, 2010'' and inserting ''June 30, 2011''.

SEC. 233. EXTENSION OF GAINSHARING DEMONSTRATION.

(a) IN GENERAL.—Subsection (d)(3) of section 5007 of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended by inserting ''(or 21 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010, in the case of a demonstration project in operation as of October 1, 2008)'' after ''December 31, 2009''.

(b) FUNDING.—

(1) IN GENERAL.—Subsection (f)(1) of such section is amended by inserting ''and for fiscal year 2010, $1,600,000,'' after ''$6,000,000,''.

(2) AVAILABILITY.—Subsection (f)(2) of such section is amended by striking ''2010'' and inserting ''2014 or until expended''.

(c) REPORTS.—

(1) QUALITY IMPROVEMENT AND SAVINGS.—Subsection (e)(3) of such section is amended by striking ''December 1, 2008'' and inserting ''18 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010''.

(2) FINAL REPORT.—Subsection (e)(4) of such section is amended by striking ''May 1, 2010'' and inserting ''42 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010''.

Subtitle C—Other Provisions

SEC. 241. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118) is amended—

(1) by striking ''before March 1, 2010''; and

(2) by inserting ''for 2011'' after ''until updated poverty guidelines''.

SEC. 242. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 is amended by adding at the end the following new section:

''SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

''(b) TERMINATION.—Subsection (a) shall not apply to any amount received after December 31, 2010.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 2009.

SEC. 243. STATE COURT IMPROVEMENT PROGRAM.

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended—

(1) in subsection (c)(2)(A), by striking ''2010'' and inserting ''2011''; and

(2) in subsection (e), by striking ''2010'' and inserting ''2011''.

SEC. 244. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111-68), as amended by section 1005 of Public Law 111-118, is further amended by striking ''by substituting'' and all that follows through the period at the end, and inserting ''by substituting December 31, 2010, for the date specified in each such section.''.

SEC. 245. EMERGENCY DISASTER ASSISTANCE.

(a) DEFINITIONS.—Except as otherwise provided in this section, in this section:

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

(B) EXCLUSION.—The term ''disaster county'' does not include a contiguous county.

(2) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2009 calendar year, as determined by the Secretary—

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

(B) experienced a substantial price increase of feed costs above the previous 5-year average.

(3) ELIGIBLE PRODUCER.—The term ''eligible producer'' means an agricultural producer in a disaster county.

(4) ELIGIBLE SPECIALTY CROP PRODUCER.—The term ''eligible specialty crop producer'' means an agricultural producer that, for the 2009 crop year, as determined by the Secretary—

(A) produced, or was prevented from planting, a specialty crop; and

(B) experienced crop losses in a disaster county due to excessive rainfall or related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(7) SPECIALTY CROP.—The term ''specialty crop'' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note).

(b) SUPPLEMENTAL DIRECT PAYMENT.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use such sums as are necessary to make supplemental payments under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753) to eligible producers on farms located in disaster counties that had at least 1 crop of economic significance (other than crops intended for grazing) suffer at least a 5-percent crop loss due to a natural disaster, including quality losses, as determined by the Secretary, in an amount equal to 90 percent of the direct payment the eligible producers received for the 2009 crop year on the farm.

(2) ACRE PROGRAM.—Eligible producers that received payments under section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 90 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

(3) INSURANCE REQUIREMENT.—As a condition of receiving assistance under this subsection, eligible producers on a farm that—

(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (other than for a crop insurance pilot program under that Act) for each crop of economic significance (other than crops intended for grazing), shall obtain such a policy or plan for those crops for the next available crop year, as determined by the Secretary; or

(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for each crop of economic significance (other than crops intended for grazing), shall obtain such coverage for those crops for the next available crop year, as determined by the Secretary.

(4) RELATIONSHIP TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(c) SPECIALTY CROP ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $150,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to excessive rainfall and related conditions affecting the 2009 crops.

(2) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties with excessive rainfall and related conditions on a pro rata basis based on the value of specialty crop losses in those counties during the 2008 calendar year, as determined by the Secretary.

(B) TIMING.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(C) MAXIMUM GRANT.—The maximum amount of a grant made to a State under this subsection may not exceed $40,000,000.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible specialty crop producers;

(B) provide assistance to eligible specialty crop producers not later than 90 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(5) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(d) COTTONSEED ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $42,000,000 to provide supplemental assistance to eligible producers and first-handlers of the 2009 crop of cottonseed in a disaster county.

(2) GENERAL TERMS.—Except as otherwise provided in this subsection, the Secretary shall provide disaster assistance under this subsection under the same terms and conditions as assistance provided under section 3015 of the Emergency Agricultural Disaster Assistance Act of 2006 (title III of Public Law 109-234; 120 Stat. 477).

(3) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

(A) the payment rate, as determined under paragraph (4); and

(B) the county-eligible production, as determined under paragraph (5).

(4) PAYMENT RATE.—The payment rate shall be equal to the quotient obtained by dividing—

(A) the sum of the county-eligible production, as determined under paragraph (5); by

(B) the total funds made available to carry out this subsection.

(5) COUNTY-ELIGIBLE PRODUCTION.—The county-eligible production shall be equal to the product obtained by multiplying—

(A) the number of acres planted to cotton in the disaster county, as reported to the Secretary by first-handlers;

(B) the expected cotton lint yield for the disaster county, as determined by the Secretary based on the best available information; and

(C) the national average seed-to-lint ratio, as determined by the Secretary based on the best available information for the 5 crop years immediately preceding the 2009 crop, excluding the year in which the average ratio was the highest and the year in which the average ratio was the lowest in such period.

(e) AQUACULTURE ASSISTANCE.—

(1) GRANT PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $25,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2009 calendar year.

(B) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible aquaculture producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(C) PROVISION OF GRANTS.—

(i) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2008 calendar year, as determined by the Secretary.

(ii) TIMING.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(D) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(i) use grant funds to assist eligible aquaculture producers;

(ii) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(iii) not later than 30 days after the date on which the State provides assistance to eligible aquaculture producers, submit to the Secretary a report that describes—

(I) the manner in which the State provided assistance;

(II) the amounts of assistance provided per species of aquaculture; and

(III) the process by which the State determined the levels of assistance to eligible aquaculture producers.

(2) REDUCTION IN PAYMENTS.—An eligible aquaculture producer that receives assistance under this subsection shall not be eligible to receive any other assistance under the supplemental agricultural disaster assistance program established under section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and section 901 of the Trade Act of 1974 (19 U.S.C. 2497) for any losses in 2009 relating to the same species of aquaculture.

(3) REPORT TO CONGRESS.—Not later than 240 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes in detail the manner in which this subsection has been carried out; and

(B) includes the information reported to the Secretary under paragraph (1)(D)(iii).

(f) HAWAII TRANSPORTATION COOPERATIVE.—Notwithstanding any other provision of law, the Secretary shall use $21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) LIVESTOCK FORAGE DISASTER PROGRAM.—

(1) DEFINITION OF DISASTER COUNTY.—In this subsection:

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

(B) INCLUSION.—The term ''disaster county'' includes a contiguous county.

(2) PAYMENTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $50,000,000 to carry out a program to make payments to eligible producers that had grazing losses in disaster counties in calendar year 2009.

(3) CRITERIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), assistance under this subsection shall be determined under the same criteria as are used to carry out the programs under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(B) DROUGHT INTENSITY.—For purposes of this subsection, an eligible producer shall not be required to meet the drought intensity requirements of section 531(d)(3)(D)(ii) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(D)(ii)).

(4) AMOUNT.—Assistance under this subsection shall be in an amount equal to 1 monthly payment using the monthly payment rate under section 531(d)(3)(B) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

(5) RELATION TO OTHER LAW.—An eligible producer that receives assistance under this subsection shall be ineligible to receive assistance for 2009 grazing losses under the program carried out under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)) .

(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—

(1) DEFINITIONS.—In this subsection:

(A) ANNOUNCEMENT DATE.—The term ''announcement date'' means the date on which the Secretary announces the emergency loan program under this subsection.

(B) POULTRY INTEGRATOR.—The term ''poultry integrator'' means a poultry integrator that filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) LOAN PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $75,000,000, to remain available until expended, for the cost of making no-interest emergency loans available to poultry producers that meet the requirements of this subsection.

(B) TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, emergency loans under this subsection shall be subject to such terms and conditions as are determined by the Secretary.

(3) LOANS.—

(A) IN GENERAL.—An emergency loan made to a poultry producer under this subsection shall be for the purpose of providing financing to the poultry producer in response to financial losses associated with the termination or nonrenewal of any contract between the poultry producer and a poultry integrator.

(B) ELIGIBILITY.—

(i) IN GENERAL.—To be eligible for an emergency loan under this subsection, not later than 90 days after the announcement date, a poultry producer shall submit to the Secretary evidence that—

(I) the contract of the poultry producer described in subparagraph (A) was not continued; and

(II) no similar contract has been awarded subsequently to the poultry producer.

(ii) REQUIREMENT TO OFFER LOANS.—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—A poultry producer that receives an emergency loan under this subsection may use the emergency loan proceeds only to repay the amount that the poultry producer owes to any lender.

(B) CONVERSION OF THE LOAN.—A poultry producer that receives an emergency loan under this subsection shall be eligible to have the balance of the emergency loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

(i) ADMINISTRATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this section.

(B) PROCEDURE.—The promulgation of the regulations and administration of this section shall be made without regard to—

(i) the notice and comment provisions of section 553 of title 5, United States Code;

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(C) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this paragraph, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(2) ADMINISTRATIVE COSTS.—Of the funds of the Commodity Credit Corporation, the Secretary may use up to $15,000,000 to pay administrative costs incurred by the Secretary that are directly related to carrying out this Act.

(3) PROHIBITION.—None of the funds of the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974 (19 U.S.C. 2497a) may be used to carry out this Act.

SEC. 246. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Small Business Administration – Business Loans Program Account'', $354,000,000, to remain available through December 31, 2010, for the cost of—

(1) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151), as amended by this section, for loans guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), or section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section; and

(2) loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section,

Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF PROGRAMS.—

(1) FEES.—Section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) is amended by striking ''September 30, 2010'' each place it appears and inserting ''December 31, 2010''.

(2) LOAN GUARANTEES.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking ''February 28, 2010'' and inserting ''December 31, 2010''.

TITLE III—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following subparagraph:

''(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

''(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an 'election year'), then, notwithstanding subparagraphs (A) and (B)—

''(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

''(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

''(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

''(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury. The Secretary of the Treasury shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

''(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

''(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

''(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).''.

(2) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—Section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following paragraph:

''(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

''(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

''(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

''(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

''(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

''(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

''(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

''(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

''(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

''(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

''(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause(ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

''(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'excess employee compensation' means, with respect to any employee for any plan year, the excess (if any) of—

''(I) the aggregate amount includible in income under chapter 1 of the Internal Revenue Code of 1986 for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

''(II) $1,000,000.

''(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

''(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting on or after February 4, 2010, of service recipient stock (within the meaning of section 409A of the Internal Revenue Code of 1986) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1) of such Code) for at least 5 years from the date of such grant.

''(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation provide for the application of this clause in the case of a person other than a corporation.

''(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

''(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is paid.

''(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) of such Code for the taxable year ending during such calendar year, and the term 'compensation' shall include earned income of such individual with respect to such self-employment.

''(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) of such Code for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of—

''(I) the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate fair market value of the stock of the plan sponsor redeemed during the plan year, over

''(II) the adjusted net income (within the meaning of section 4043) of the plan sponsor for the preceding plan year.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 4, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 302(d)(3)) to another member of such group shall not be taken into account under clause (i).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 302(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 4-year period beginning with the election year, and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 7-year period beginning with the election year.

''(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

''(iv) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).''.

(3) CONFORMING AMENDMENTS.—Section 303 of such Act (29 U.S.C. 1083) is amended—

(A) in subsection (c)(1), by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection'', and

(B) in subsection (j)(3), by adding at the end the following:

''(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 430(c) is amended by adding at the end the following subparagraph:

''(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

''(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an 'election year'), then, notwithstanding subparagraphs (A) and (B)—

''(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

''(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

''(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

''(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary, and may be revoked only with the consent of the Secretary. The Secretary shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

''(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

''(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

''(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).''.

(2) INCREASES IN REQUIRED CONTRIBUTIONS IF EXCESS COMPENSATION PAID.—Section 430(c) is amended by adding at the end the following paragraph:

''(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

''(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

''(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

''(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

''(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

''(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

''(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

''(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

''(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

''(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

''(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause(ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year (without regard to whether such succeeding plan year is in the restriction period).

''(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'excess employee compensation' means, with respect to any employee for any plan year, the excess (if any) of—

''(I) the aggregate amount includible in income under this chapter for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

''(II) $1,000,000.

''(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

''(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting on or after February 4, 2010, of service recipient stock (within the meaning of section 409A) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1)) for at least 5 years from the date of such grant.

''(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation provide for the application of this clause in the case of a person other than a corporation.

''(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

''(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is paid.

''(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) for the taxable year ending during such calendar year, and the term 'compensation' shall include earned income of such individual with respect to such self-employment.

''(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of—

''(I) the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate fair market value of the stock of the plan sponsor redeemed during the plan year, over

''(II) the adjusted net income (within the meaning of section 4043 of the Employee Retirement Income Security Act of 1974) of the plan sponsor for the preceding plan year.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 4, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 412(d)(3)) to another member of such group shall not be taken into account under clause (i).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 412(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 4-year period beginning with the election year, and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 7-year period beginning with the election year.

''(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

''(iv) MERGERS AND ACQUISITIONS.—The Secretary shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).''.

(3) CONFORMING AMENDMENTS.—Section 430 is amended—

(A) in subsection (c)(1), by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection'', and

(B) in subsection (j)(3), by adding at the end the following:

''(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 302. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

(a) IN GENERAL.—Title I of the Pension Protection Act of 2006 is amended by redesignating section 107 as section 108 and by inserting the following after section 106:

''SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

''(a) IN GENERAL.—If the plan sponsor of a plan to which section 104, 105, or 106 of this Act applies elects to have this section apply for any eligible plan year (in this section referred to as an 'election year'), section 302 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) shall apply to such year in the manner described in subsection (b) or (c), whichever is specified in the election. All references in this section to 'such Act' or 'such Code' shall be to such Act or such Code as in effect before the amendments made by this subtitle and subtitle B.

''(b) APPLICATION OF 2 AND 7 RULE.—In the case of an election year to which this subsection applies—

''(1) 2-YEAR LOOKBACK FOR DETERMINING DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—For purposes of applying section 302(d)(9) of such Act and section 412(l)(9) of such Code, the funded current liability percentage (as defined in subparagraph (C) thereof) for such plan for such plan year shall be such funded current liability percentage of such plan for the second plan year preceding the first election year of such plan.

''(2) CALCULATION OF DEFICIT REDUCTION CONTRIBUTION.—For purposes of applying section 302(d) of such Act and section 412(l) of such Code to a plan to which such sections apply (after taking into account paragraph (1))—

''(A) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, and

''(B) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

''(c) APPLICATION OF 15-YEAR AMORTIZATION.—In the case of an election year to which this subsection applies, for purposes of applying section 302(d) of such Act and section 412(l) of such Code—

''(1) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code for any pre-effective date plan year beginning with or after the first election year shall be the ratio of—

''(A) the annual installments payable in each year if the increased unfunded new liability for such plan year were amortized over 15 years, using an interest rate equal to the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, to

''(B) the increased unfunded new liability for such plan year, and

''(2) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

''(d) ELECTION.—

''(1) IN GENERAL.—The plan sponsor of a plan may elect to have this section apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan to which section 106 of this Act applies, the plan sponsor may only elect to have this section apply to 1 eligible plan year.

''(2) AMORTIZATION SCHEDULE.—Such election shall specify whether the rules under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

''(3) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year beginning in 2008 shall only be treated as an eligible plan year if the due date for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this clause.

''(2) PRE-EFFECTIVE DATE PLAN YEAR.—The term 'pre-effective date plan year' means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan.

''(3) INCREASED UNFUNDED NEW LIABILITY.—The term 'increased unfunded new liability' means, with respect to a year, the excess (if any) of the unfunded new liability over the amount of unfunded new liability determined as if the value of the plan's assets determined under subsection 302(c)(2) of such Act and section 412(c)(2) of such Code equaled the product of the current liability of the plan for the year multiplied by the funded current liability percentage (as defined in section 302(d)(8)(B) of such Act and 412(l)(8)(B) of such Code) of the plan for the second plan year preceding the first election year of such plan.

''(4) OTHER DEFINITIONS.—The terms 'unfunded new liability' and 'current liability' shall have the meanings set forth in section 302(d) of such Act and section 412(l) of such Code.''.

(b) ELIGIBLE CHARITY PLANS.—Section 104 of the Pension Protection Act of 2006 is amended—

(1) by striking ''eligible cooperative plan'' wherever it appears in subsections (a) and (b) and inserting ''eligible cooperative plan or an eligible charity plan'', and

(2) by adding at the end the following new subsection:

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the Pension Protection Act of 2006.

(2) ELIGIBLE CHARITY PLAN.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2007, except that a plan sponsor may elect to apply such amendments to plan years beginning after December 31, 2008. Any such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

SEC. 303. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

(1) AMENDMENT TO ERISA.—Section 206(g)(9) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

''(D) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(i) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(I) such percentage, as determined without regard to this subparagraph, or

''(II) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

''(iii) APPLICABLE PROVISION.—For purposes of this subparagraph, the term 'applicable provision' means—

''(I) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(II) paragraph (4).''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(i) such percentage, as determined without regard to this paragraph, or

''(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

''(B) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(i) subparagraph (A) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

''(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term 'applicable provision' means—

''(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(ii) subsection (e).''.

(b) INTERACTION WITH WRERA RULE.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 shall apply to a plan for any plan year in lieu of the amendments made by this section applying to sections 206(g)(4) of the Employee Retirement Income Security Act of 1974 and 436(e) of the Internal Revenue Code of 1986 only to the extent that such section produces a higher adjusted funding target attainment percentage for such plan for such year.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning on or after October 1, 2008.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2007.

Subtitle B—Multiemployer Plans

SEC. 311. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

(1) AMENDMENT TO ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury for purposes of section 165 of the Internal Revenue Code of 1986.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both

of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of such 2 plan years the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary of the Treasury shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by such Secretary under section 302(d)(1) and section 412(d)(1) of such Code.

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary for purposes of section 165.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of such 2 plan years the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by the Secretary under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1).

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect as of the first day of the first plan year ending after August 31, 2008, except that any election a plan makes pursuant to this section that affects the plan's funding standard account for the first plan year ending after August 31, 2008, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year.

(2) RESTRICTIONS ON BENEFIT INCREASES.—Notwithstanding paragraph (1), the restrictions on plan amendments increasing benefits in sections 304(b)(8)(D) of such Act and 431(b)(8)(D) of such Code, as added by this section, shall take effect on the date of enactment of this Act.

TITLE IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

SEC. 401. EXCLUSION OF UNPROCESSED FUELS FROM THE CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 40(b)(6) is amended by adding at the end the following new clause:

''(iii) EXCLUSION OF UNPROCESSED FUELS.—The term 'cellulosic biofuel' shall not include any fuel if—

''(I) more than 4 percent of such fuel (determined by weight) is any combination of water and sediment, or

''(II) the ash content of such fuel is more than 1 percent (determined by weight).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

SEC. 402. PROHIBITION ON ALTERNATIVE FUEL CREDIT AND ALTERNATIVE FUEL MIXTURE CREDIT FOR BLACK LIQUOR.

(a) IN GENERAL.—The last sentence of section 6426(d)(2) is amended by striking ''or biodiesel'' and inserting ''biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold or used after December 31, 2009.

Subtitle B—Homebuyer Credit

SEC. 411. TECHNICAL MODIFICATIONS TO HOMEBUYER CREDIT.

(a) EXPANDED DOCUMENTATION REQUIREMENT.—Subsection (d) of section 36, as amended by the Worker, Homeownership, and Business Assistance Act of 2009, is amended—

(1) by striking ''or'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting a comma, and

(3) by adding at the end the following new paragraphs:

''(5) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (c)(6), the taxpayer fails to attach to the return of tax for

such taxable year a copy of such property tax bills or other documentation as are required by the Secretary to demonstrate compliance with the requirements of subsection (c)(6), or

''(6) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (h)(2), the taxpayer fails to attach to the return of tax for such taxable year a copy of the binding contract which meets the requirements of subsection (h)(2).''.

(b) MODIFICATION OF EFFECTIVE DATE OF DOCUMENTATION REQUIREMENTS.—Paragraph (2) of section 12(e) of the Worker, Homeownership, and Business Assistance Act of 2009 is amended by striking ''returns for taxable years ending after the date of the enactment of this Act'' and inserting ''returns filed after the date of the enactment of this Act''.

(c) EFFECTIVE DATES.—

(1) DOCUMENTATION REQUIREMENTS.—The amendments made by subsection (a) shall apply to purchases on or after the date of the enactment of this Act.

(2) EFFECTIVE DATE OF WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT.—The amendment made by subsection (b) shall apply to purchases of a principal residence on or after the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

Subtitle C—Economic Substance

SEC. 421. CODIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; PENALTIES.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.—

''(1) APPLICATION OF DOCTRINE.—In the case of any transaction to which the economic substance doctrine is relevant, such transaction shall be treated as having economic substance only if—

''(A) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

''(B) the taxpayer has a substantial purpose (apart from Federal income tax effects) for entering into such transaction.

''(2) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—

''(A) IN GENERAL.—The potential for profit of a transaction shall be taken into account in determining whether the requirements of subparagraphs (A) and (B) of paragraph (1) are met with respect to the transaction only if the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.

''(B) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses shall be taken into account as expenses in determining pre-tax profit under subparagraph (A). The Secretary may issue regulations requiring foreign taxes to be treated as expenses in determining pre-tax profit in appropriate cases.

''(3) STATE AND LOCAL TAX BENEFITS.—For purposes of paragraph (1), any State or local income tax effect which is related to a Federal income tax effect shall be treated in the same manner as a Federal income tax effect.

''(4) FINANCIAL ACCOUNTING BENEFITS.—For purposes of paragraph (1)(B), achieving a financial accounting benefit shall not be taken into account as a purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of Federal income tax.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, paragraph (1) shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(C) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(D) DETERMINATION OF APPLICATION OF DOCTRINE NOT AFFECTED.—The determination of whether the economic substance doctrine is relevant to a transaction shall be made in the same manner as if this subsection had never been enacted.

''(E) TRANSACTION.—The term 'transaction' includes a series of transactions.

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.''.

(b) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (5) the following new paragraph:

''(6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.''.

(2) INCREASED PENALTY FOR NONDISCLOSED TRANSACTIONS.—Section 6662 is amended by adding at the end the following new subsection:

''(i) INCREASE IN PENALTY IN CASE OF NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

''(1) IN GENERAL.—In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.

''(2) NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—For purposes of this subsection, the term 'nondisclosed noneconomic substance transaction' means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts affecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended—

(A) by striking ''section 6662(h)'' and inserting ''subsections (h) or (i) of section 6662''; and

(B) by striking ''GROSS VALUATION MISSTATEMENT PENALTY'' in the heading and inserting ''CERTAIN INCREASED UNDERPAYMENT PENALTIES''.

(c) REASONABLE CAUSE EXCEPTION NOT APPLICABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.—

(1) REASONABLE CAUSE EXCEPTION FOR UNDERPAYMENTS.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking ''paragraph (2)'' in paragraph (4)(A), as so redesignated, and inserting ''paragraph (3)''; and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment which is attributable to one or more transactions described in section 6662(b)(6).''.

(2) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—Subsection (d) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking ''paragraph (2)(C)'' in paragraph (4), as so redesignated, and inserting ''paragraph (3)(C)''; and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a reportable transaction understatement which is attributable to one or more transactions described in section 6662(b)(6).''.

(d) APPLICATION OF PENALTY FOR ERRONEOUS CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUBSTANCE TRANSACTIONS.—Section 6676 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) NONECONOMIC SUBSTANCE TRANSACTIONS TREATED AS LACKING REASONABLE BASIS.—For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as having a reasonable basis.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

(2) UNDERPAYMENTS.—The amendments made by subsections (b) and (c)(1) shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

(3) UNDERSTATEMENTS.—The amendments made by subsection (c)(2) shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

(4) REFUNDS AND CREDITS.—The amendment made by subsection (d) shall apply to refunds and credits attributable to transactions entered into after the date of the enactment of this Act.

Subtitle D—Additional Provisions

SEC. 431. REVISION TO THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1)(A) of the Social Security Act (42 U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), is amended by striking ''$20,740,000,000'' and inserting ''$12,740,000,000''.

TITLE V—SATELLITE TELEVISION EXTENSION

SEC. 501. SHORT TITLE.

This title may be cited as the ''Satellite Television Extension and Localism Act of 2010''.

Subtitle A—Statutory Licenses

SEC. 501. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

SEC. 502. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking ''**superstations and network stations for private home viewing**'' and inserting ''**distant television programming by satellite**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

''119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite.''.

(b) UNSERVED HOUSEHOLD DEFINED.—

(1) IN GENERAL.—Section 119(d)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household's local market and affiliated with that network of—

''(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

''(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;'';

(B) in subparagraph (B)—

(i) by striking ''subsection (a)(14)'' and inserting ''subsection (a)(13),''; and

(ii) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(C) in subparagraph (D), by striking ''(a)(12)'' and inserting ''(a)(11)''.

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

''(14) QUALIFYING DATE.—The term 'qualifying date', for purposes of paragraph (10)(A), means—

''(A) July 1, 2010, for multicast streams that exist on December 31, 2009; and

''(B) January 1, 2011, for all other multicast streams.''.

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).''.

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: ''(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—'';

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and'';

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting after paragraph (1) the following:

''(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.'';

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting ''(including the filing fee specified in paragraph (1)(C))'' after ''shall receive all fees''; and

(B) by striking ''paragraph (4)'' and inserting ''paragraph (5)'';

(6) in paragraph (4), as redesignated—

(A) by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''; and

(7) in paragraph (5), as redesignated, by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(e) ADJUSTMENT OF ROYALTY FEES.—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking ''ANALOG'';

(B) in subparagraph (A)—

(i) by striking ''primary analog transmissions'' and inserting ''primary transmissions''; and

(ii) by striking ''July 1, 2004'' and inserting ''July 1, 2009'';

(C) in subparagraph (B)—

(i) by striking ''January 2, 2005, the Librarian of Congress'' and inserting ''March 1, 2010, the Copyright Royalty Judges''; and

(ii) by striking ''primary analog transmission'' and inserting ''primary transmissions'';

(D) in subparagraph (C), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking ''(i) Voluntary agreements'' and inserting the following:

''(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements''; and

(II) by striking ''that a parties'' and inserting ''that are parties''; and

(ii) in clause (ii)—

(I) by striking ''(ii)(I) Within'' and inserting the following:

''(ii) PROCEDURE FOR ADOPTION OF FEES.—

''(I) PUBLICATION OF NOTICE.—Within'';

(II) in subclause (I), by striking ''an arbitration proceeding pursuant to subparagraph (E)'' and inserting ''a proceeding under subparagraph (F)'';

(III) in subclause (II), by striking ''(II) Upon receiving a request under subclause (I), the Librarian of Congress'' and inserting the following:

''(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges''; and

(IV) in subclause (III)—

(aa) by striking ''(III) The Librarian'' and inserting the following:

''(III) ADOPTION OF FEES.—The Copyright Royalty Judges'';

(bb) by striking ''an arbitration proceeding'' and inserting ''the proceeding under subparagraph (F)''; and

(cc) by striking ''the arbitration proceeding'' and inserting ''that proceeding'';

(F) in subparagraph (E)—

(i) by striking ''Copyright Office'' and inserting ''Copyright Royalty Judges''; and

(ii) by striking ''February 28, 2010'' and inserting ''December 31, 2014''; and

(G) in subparagraph (F)—

(i) in the heading, by striking ''COMPULSORY ARBITRATION'' and inserting '' COPYRIGHT ROYALTY JUDGES PROCEEDING'';

(ii) in clause (i)—

(I) in the heading, by striking ''PROCEEDINGS'' and inserting ''THE PROCEEDING'';

(II) in the matter preceding subclause (I)—

(aa) by striking ''May 1, 2005, the Librarian of Congress'' and inserting ''May 3, 2010, the Copyright Royalty Judges'';

(bb) by striking ''arbitration proceedings'' and inserting ''a proceeding'';

(cc) by striking ''fee to be paid'' and inserting ''fees to be paid'';

(dd) by striking ''primary analog transmission'' and inserting ''the primary transmissions''; and

(ee) by striking ''distributors'' and inserting ''distributors—'';

(III) in subclause (II)—

(aa) by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(bb) by striking ''arbitration''; and

(IV) by amending the last sentence to read as follows: ''Such proceeding shall be conducted under chapter 8.'';

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

''(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—'';

(iv) by amending clause (iii) to read as follows:

''(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.''; and

(v) in clause (iv)—

(I) in the heading, by striking ''FEE'' and inserting ''FEES''; and

(II) by striking ''fee referred to in (iii)'' and inserting ''fees referred to in clause (iii)''.

(2) Paragraph (2) is amended to read as follows:

''(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.''.

(f) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

''(8) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(2) LOCAL MARKET.—Section 119(d)(11) is amended to read as follows:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j).''.

(3) LOW POWER TELEVISION STATION.—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(4) MULTICAST STREAM.—Section 119(d), as amended by paragraph (3), is further amended by adding at the end the following new paragraph:

''(14) MULTICAST STREAM.—The term 'multicast stream' means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.''.

(5) PRIMARY STREAM.—Section 119(d), as amended by paragraph (4), is further amended by adding at the end the following new paragraph:

''(15) PRIMARY STREAM.—The term 'primary stream' means—

''(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

''(B) if there is no stream described in subparagraph (A), then either—

''(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

''(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.''.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking ''which'' each place it appears and inserting ''that''.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking ''superstation'' each place it appears in a heading and each place it appears in text and inserting ''non-network station''; and

(2) by striking ''superstations'' each place it appears in a heading and each place it appears in text and inserting ''non-network stations''.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''(5), (6), and (8)'' and inserting ''(4), (5), and (7)'';

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)'' and inserting ''subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)'';

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

''(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

''(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.''; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking ''under paragraph (3) or''; and

(II) by striking ''paragraph (12)'' and inserting ''paragraph (11)''; and

(B) in subsection (b)(1), by striking the final sentence.

(i) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

''(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005).''.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking ''analog'' each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

''(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the 'distant signal'), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(C) FUTURE APPLICABILITY.—

''(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the 'distant signal') on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.'';

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking ''(C) or (D)'' and inserting ''(B) or (C)''; and

(E) in subparagraph (F) (as redesignated), by inserting ''9-digit'' before ''zip code''.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking ''$5'' and inserting ''$250'';

(B) in subparagraph (B)——

(i) in clause (i), by striking ''$250,000 for each 6-month period'' and inserting ''$2,500,000 for each 3-month period''; and

(ii) in clause (ii), by striking ''$250,000'' and inserting ''$2,500,000''; and

(C) by adding at the end the following flush sentences:

''The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.''.

(4) TECHNICAL AMENDMENT.—Section 119(a)(4) (as redesignated) is amended by striking ''and 509''.

(5) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking ''In this clause'' and inserting ''In this clause,''.

(j) MORATORIUM EXTENSION.—Section 119(e) is amended by striking ''February 28, 2010'' and inserting ''December 31, 2014''.

(k) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking ''of the Code of Federal Regulations'' each place it appears and inserting '', Code of Federal Regulations''; and

(2) in subsection (d)(6), by striking ''or the Direct'' and inserting '', or the Direct''.

SEC. 503. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking ''**by satellite carriers within local markets**'' and inserting ''**of local television programming by satellite**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

''122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.''.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

''(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

''(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(A) the secondary transmission is made by a satellite carrier to the public;

''(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

''(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(i) each subscriber receiving the secondary transmission; or

''(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(2) SIGNIFICANTLY VIEWED STATIONS.—

''(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station's local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

''(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

''(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

''(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

''(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

''(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

''(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

''(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

''(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

''(i) on January 1, 2004, were in local markets principally comprised of counties in another State, and

''(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

''(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

''(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

''(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

''(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

''(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.''.

(c) REPORTING REQUIREMENTS.—Section 122(b) is amended—

(1) in paragraph (1), by striking ''station a list'' and all that follows through the end and inserting the following: ''station—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

''(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).''; and

(2) in paragraph (2), by striking ''network a list'' and all that follows through the end and inserting the following: ''network—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

''(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has

been added or dropped since the last submission under this subsection.''.

(d) NO ROYALTY FEE FOR CERTAIN SECONDARY TRANSMISSIONS.—Section 122(c) is amended—

(1) in the heading, by inserting ''FOR CERTAIN SECONDARY TRANSMISSIONS'' after ''REQUIRED''; and

(2) by striking ''subsection (a)'' and inserting ''paragraphs (1), (2), and (3) of subsection (a)''.

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

(1) MODIFICATION TO STATUTORY DAMAGES.—Section 122(f) is amended—

(A) in paragraph (1)(B), by striking ''$5'' and inserting ''$250''; and

(B) in paragraph (2), by striking ''$250,000'' each place it appears and inserting ''$2,500,000''.

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking ''section 119 or'' each place it appears and inserting the following: ''section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to''; and

(B) in subsection (g), by striking ''section 119 or'' and inserting the following: ''section 119, paragraph (2)(A), (3), or (4) of subsection (a), or''.

(f) DEFINITIONS.—Section 122(j) is amended—

(1) in paragraph (1), by striking ''which contracts'' and inserting ''that contracts'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(3) in paragraph (3)—

(A) by redesignating such paragraph as paragraph (4);

(B) in the heading of such paragraph, by inserting ''NON-NETWORK STATION;'' after ''NETWORK STATION;''; and

(C) by inserting '' 'non-network station','' after '' 'network station','';

(4) by inserting after paragraph (2) the following:

''(3) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term 'low power television station' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.'';

(5) by inserting after paragraph (4) (as redesignated) the following:

''(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term 'noncommercial educational broadcast station' means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

''(6) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.''.

SEC. 504. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 111 is amended by inserting at the end the following: ''**of broadcast programming by cable**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

''111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.''.

(b) TECHNICAL AMENDMENT.—Section 111(a)(4) is amended by striking ''; or'' and inserting ''or section 122;''.

(c) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''A cable system whose secondary'' and inserting the following: ''STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary''; and

(ii) by striking ''by regulation—'' and inserting ''by regulation the following:'';

(B) in subparagraph (A)—

(i) by striking ''a statement of account'' and inserting ''A statement of account''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D) and inserting the following:

''(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

''(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

''(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

''(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

''(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

''(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

''(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

''(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

''(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

''(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

''(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

''(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

''(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are $263,800 or less—

''(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which $263,800 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $10,400; and

''(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

''(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than $263,800 but less than $527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

''(i) 0.5 percent of any gross receipts up to $263,800, regardless of the number of distant signal equivalents, if any; and

''(ii) 1 percent of any gross receipts in excess of $263,800, but less than $527,600, regardless of the number of distant signal equivalents, if any.

''(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).'';

(2) in paragraph (2), in the first sentence—

(A) by striking ''The Register of Copyrights'' and inserting the following ''HANDLING OF FEES.—The Register of Copyrights''; and

(B) by inserting ''(including the filing fee specified in paragraph (1)(G))'' after ''shall receive all fees'';

(3) in paragraph (3)—

(A) by striking ''The royalty fees'' and inserting the following: ''DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees'';

(B) in subparagraph (A)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking ''; and'' and inserting a period;

(C) in subparagraph (B)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking ''any such'' and inserting ''Any such'';

(4) in paragraph (4), by striking ''The royalty fees'' and inserting the following: ''PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees''; and

(5) by adding at the end the following new paragraphs:

''(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the '3.75 percent rate' and the 'syndicated exclusivity surcharge', respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty

Judges, shall not apply to the secondary transmission of a multicast stream.

''(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account filed under this subsection on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

''(A) establish procedures for the designation of a qualified independent auditor—

''(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

''(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

''(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

''(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

''(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor's report and to cure any underpayment identified; and

''(iii) provide an opportunity to remedy any disputed facts or conclusions;

''(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

''(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

''(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.''.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

''(1) PRIMARY TRANSMISSION.—A 'primary transmission' is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.'';

(2) in the second undesignated paragraph—

(A) by striking ''A 'secondary transmission' '' and inserting the following:

''(2) SECONDARY TRANSMISSION.—A 'secondary transmission' ''; and

(B) by striking '' 'cable system' '' and inserting ''cable system'';

(3) in the third undesignated paragraph—

(A) by striking ''A 'cable system' '' and inserting the following:

''(3) CABLE SYSTEM.—A 'cable system' ''; and

(B) by striking ''Territory, Trust Territory, or Possession'' and inserting ''territory, trust territory, or possession of the United States'';

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking ''The 'local service area of a primary transmitter', in the case of a television broadcast station, comprises the area in which such station is entitled to insist'' and inserting the following:

''(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The 'local service area of a primary transmitter', in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted'';

(B) by striking ''76.59 of title 47 of the Code of Federal Regulations'' and inserting the following: ''76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations''; and

(C) by striking ''as defined by the rules and regulations of the Federal Communications Commission,'';

(5) by amending the fifth undesignated paragraph to read as follows:

''(5) DISTANT SIGNAL EQUIVALENT.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), a 'distant signal equivalent'—

''(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

''(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

''(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

''(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

''(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

''(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

''(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.'';

(6) by striking the sixth undesignated paragraph and inserting the following:

''(6) NETWORK STATION.—

''(A) TREATMENT OF PRIMARY STREAM.—The term 'network station' shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream's typical broadcast day.

''(B) TREATMENT OF MULTICAST STREAMS.—The term 'network station' shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

''(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

''(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.'';

(7) by striking the seventh undesignated paragraph and inserting the following:

''(7) INDEPENDENT STATION.—The term 'independent station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.'';

(8) by striking the eighth undesignated paragraph and inserting the following:

''(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term 'noncommercial educational station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(9) by adding at the end the following:

''(9) PRIMARY STREAM.—A 'primary stream' is—

''(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

''(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

''(10) PRIMARY TRANSMITTER.—A 'primary transmitter' is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

''(11) MULTICAST STREAM.—A 'multicast stream' is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream.

''(12) SIMULCAST.—A 'simulcast' is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

''(13) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking ''2005'' each place it appears and inserting ''2015''.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking ''clause'' each place it appears and inserting ''paragraph'';

(B) in subsection (c)(1), by striking ''clauses'' and inserting ''paragraphs''; and

(C) in subsection (e)(1)(F), by striking ''subclause'' and inserting ''subparagraph''.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking ''nonnetwork'' each place it appears and inserting ''non-network''.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking ''second paragraph of subsection (f)'' and inserting ''subsection (f)(2)''.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking ''and'' at the end;

(B) in paragraph (1)(B), by striking ''and'' at the end;

(C) in paragraph (1)(C), by striking ''and'' at the end;

(D) in paragraph (1)(D), by striking ''and'' at the end; and

(E) in paragraph (2)(A), by striking ''and'' at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking '', and each of its variant forms,''; and

(B) in subsection (f), by striking ''and their variant forms''.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking ''three territories'' and inserting ''five entities''.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2010 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PRE-EXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms ''cable system'', ''secondary transmission'', ''multicast stream'', and ''local service area of a primary transmitter'' have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

SEC. 505. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

''(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

''(2) LIMITED TEMPORARY WAIVER.—

''(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

''(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

''(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

''(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(II) shall result in the termination of the waiver issued under subparagraph (A).

''(ii) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

''(I) the degree of control the carrier had over the circumstances that resulted in the failure;

''(II) the quality of the carrier's efforts to remedy the failure; and

''(III) the severity and duration of any service interruption.

''(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

''(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term 'short market' means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

''(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

''(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

''(i) an affidavit that the entity is providing local-into-local service to all DMAs;

''(ii) a request for a waiver of the injunction; and

''(iii) a certification issued pursuant to section 342(a) of Communications Act of 1934.

''(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1).

''(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

''(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

''(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

''(A) CONTINUING OBLIGATIONS.—

''(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

''(ii) COOPERATION WITH GAO EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the Comptroller General in the examination required by subparagraph (B).

''(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

''(i) EXAMINATION AND REPORT.—The Comptroller General shall conduct an examination and publish a report concerning the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on December 31, 2011.

''(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than October 1, 2011, the qualified carrier shall provide the Comptroller General with all records that the Comptroller General, in consultation with the Register of Copyrights, considers to be directly pertinent to the following requirements under this section:

''(I) Proper calculation and payment of royalties under the statutory license under this section.

''(II) Provision of service under this license to eligible subscribers only.

''(iii) SUBMISSION OF REPORT.—The Comptroller General shall file the report required by clause (i) not later than March 1, 2012, with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

''(iv) EVIDENCE OF INFRINGEMENT.—The Comptroller General shall include in the report a statement of whether the examination by the Comptroller General indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement. The Comptroller General shall consult with the Register of Copyrights in preparing such statement.

''(v) SUBSEQUENT EXAMINATION.—If the report includes the Comptroller General's statement that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the Comptroller General shall, not later than 6 months after the report under clause (i) is published, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The Comptroller General shall file a report on such examination with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv), prepared in consultation with the Register of Copyrights.

''(vi) COMPLIANCE.—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

''(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

''(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

''(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

''(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

''(5) FAILURE TO PROVIDE SERVICE.—

''(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

''(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(ii) impose a fine of not less than $250,000 and not more than $5,000,000.

''(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for noncompliance that reflect—

''(i) the degree of control the entity had over the circumstances that resulted in the failure;

''(ii) the quality of the entity's efforts to remedy the failure and restore service; and

''(iii) the severity and duration of any service interruption.

''(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than $2,500,000.

''(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

''(A) IN GENERAL.—An entity provides 'local-into-local service to all DMAs' if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

''(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

''(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term 'good quality signal' has the meaning given such term under section 342(e)(2) of Communications Act of 1934.''.

SEC. 506. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking ''and'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

''(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

''(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.''; and

(4) by adding at the end the following new sentence: ''Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.''.

SEC. 507. TERMINATION OF LICENSE.

Section 1003(a)(2)(A) of Public Law 111-118 is amended by striking ''February 28, 2010'' and inserting ''December 31, 2014''.

SEC. 508. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this subtitle, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

Subtitle B—Communications Provisions

SEC. 521. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 522. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking ''February 28, 2010'' and inserting ''December 31, 2014''; and

(2) in paragraph (3)(C), by striking ''March 1, 2010'' each place it appears in clauses (ii) and (iii) and inserting ''January 1, 2015''.

SEC. 523. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

''(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

''(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.''.

(b) RULEMAKING REQUIRED.—Within 180 days after the date of the enactment of this

Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

SEC. 524. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking ''(3) EFFECTIVE DATE.—No satellite'' and all that follows through ''until January 1, 2002.''; and

(2) by amending subsection (g) to read as follows:

''(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

''(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

''(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).''.

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking ''Such two network stations'' and all that follows through ''more than two network stations.''; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking ''TO ANALOG SIGNALS'';

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking ''ANALOG'';

(II) in clause (i)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''October 1, 2004'' and inserting ''October 1, 2009'';

(III) in the heading for clause (ii), by striking ''ANALOG''; and

(IV) in clause (ii)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''2004'' and inserting ''2009'';

(iii) by amending subparagraph (B) to read as follows:

''(B) RULES FOR OTHER SUBSCRIBERS.—

''(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

''(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

''(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

''(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

''(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.'';

(iv) in subparagraph (C)—

(I) by striking ''analog'';

(II) in clause (i), by striking ''the Satellite Home Viewer Extension and Reauthorization Act of 2004; and'' and inserting the following: ''the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or''; and

(III) by amending clause (ii) to read as follows:

''(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.'';

(v) in subparagraph (D)—

(I) in the heading, by striking ''DIGITAL'';

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

''(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

''(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

''(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

''(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.'';

(V) in clause (ii)—

(aa) by striking ''DIGITAL'' in the heading;

(bb) by striking ''digital'' the first two places such term appears;

(cc) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(dd) by striking '', whether or not such subscriber elects to subscribe to local digital signals'';

(VI) by inserting after clause (ii) the following new clause:

''(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.''; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking ''distant analog signal or'' and all that follows through ''(B), or (D))'' and inserting ''distant signal'';

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

''(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

''(A) PREDICTIVE MODEL.—Within 180 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

''(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06–94 within 180 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.'';

(B) by amending paragraph (4)(A) to read as follows:

''(A) IN GENERAL.—If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive

a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.'';

(C) in paragraph (4)(B), by striking ''the signal intensity'' and all that follows through ''United States Code'' and inserting ''such requisite signal intensity standard''; and

(D) in paragraph (4)(E), by striking ''Grade B intensity''.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

SEC. 525. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 523 and section 524 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber's eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms ''local market'', ''low power television station'', ''satellite carrier'', ''subscriber'', and ''television broadcast station'' have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms ''network station'' and ''television network'' have the meanings given such terms in section 339(d) of such Act.

SEC. 526. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

''SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

''(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

''(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

''(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

''(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

''(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

''(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

''(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

''(2) For each designated market area not listed in paragraph (1):

''(A) Identification of each such designated market area and the location of its local receive facility.

''(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

''(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's prelaunch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

''(c) CERTIFICATION ISSUANCE.—

''(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

''(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

''(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

''(e) DEFINITIONS.—For the purposes of this section:

''(1) DESIGNATED MARKET AREA.—The term 'designated market area' has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

''(2) GOOD QUALITY SATELLITE SIGNAL.—

''(A) IN GENERAL.—The term ''good quality satellite signal'' means—

''(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

''(I) models of satellite antennas normally used by the satellite carrier's subscribers; and

''(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

''(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

''(I) the satellite carrier treats all television broadcast stations' signals the same with respect to statistical multiplexer prioritization; and

''(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

''(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier's application for certification under this section.''.

SEC. 527. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

''(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

''(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

''(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

''(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

''(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite

Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.''.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE SATELLITE CARRIER.—The term 'eligible satellite carrier' means any satellite carrier that is not a party to a carriage contract that—

''(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

''(B) is in force and effect within 60 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.'';

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

''(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any full-power television broadcast station that—

''(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

''(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.''.

SEC. 528. SAVINGS CLAUSE REGARDING DEFINITIONS.

Nothing in this subtitle or the amendments made by this subtitle shall be construed to affect—

(1) the meaning of the terms ''program related'' and ''primary video'' under the Communications Act of 1934; or

(2) the meaning of the term ''multicast'' in any regulations issued by the Federal Communications Commission.

SEC. 529. STATE PUBLIC AFFAIRS BROADCASTS.

Section 335(b) is amended—

(1) by inserting ''**STATE PUBLIC AFFAIRS,**'' after ''**EDUCATIONAL,**'' in the heading;

(2) by striking paragraph (1) and inserting the following:

''(1) CHANNEL CAPACITY REQUIRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

''(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.'';

(3) in paragraph (5), by striking ''For purposes of the subsection—'' and inserting ''For purposes of this subsection:''; and

(4) by adding at the end of paragraph (5) the following:

''(C) The term 'qualified satellite provider' means any provider of direct broadcast satellite service that—

''(i) provides the retransmission of the State public affairs networks of at least 15 different States;

''(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

''(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

''(D) The term 'State public affairs network' means a non-commercial non-broadcast network or a noncommercial educational television station—

''(i) whose programming consists of information about State government deliberations and public policy events; and

''(ii) that is operated by—

''(I) a State government or subdivision thereof;

''(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

''(III) a cable system.''.

Subtitle C—Reports and Savings Provision

SEC. 531. DEFINITION.

In this subtitle, the term ''appropriate Congressional committees'' means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

SEC. 532. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.

Not later than 1 year after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

SEC. 533. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

SEC. 534. REPORT ON IN-STATE BROADCAST PROGRAMMING.

Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

SEC. 535. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 180th day after the date of the enactment of this Act, and on each succeeding anniversary of such 180th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) FCC STUDY; REPORT.—

(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 (as added by section 526 of this title) within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph

(1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) DEFINITIONS.—In this section—

(1) the terms ''local market'' and ''satellite carrier'' have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term ''television broadcast station'' has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

SEC. 536. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.

(a) IN GENERAL.—Nothing in this title, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the Register of Copyrights under this title or title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this title or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

SEC. 537. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.

Unless specifically provided otherwise, this title, and the amendments made by this title, shall take effect on February 27, 2010, and all references to enactment of this Act shall be deemed to refer to such date unless otherwise specified. The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010 and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

Subtitle D—Severability

SEC. 541. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of such provision or amendment to any person or circumstance shall not be affected thereby.

TITLE VI—OTHER PROVISIONS

SEC. 601. INCREASE IN THE MEDICARE PHYSICIAN PAYMENT UPDATE.

Paragraph (10) of section 1848(d) of the Social Security Act, as added by section 1011(a) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), is amended—

(1) in subparagraph (A), by striking ''February 28, 2010'' and inserting ''September 30, 2010''; and

(2) in subparagraph (B), by striking ''March 1, 2010'' and inserting ''October 1, 2010''.

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

SEC. 701. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

(b) EMERGENCY DESIGNATION.—Sections 201, 211, and 232 of this Act are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)) and section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. In the House of Representatives, sections 201, 211, and 232 of this Act are designated as an emergency for purposes of pay-as-you-go principles.

TITLE VIII—ADDITIONAL OFFSETS

SEC. 801. REPEAL OF INCREASE OF THE OFFICE BUDGETS OF MEMBERS OF CONGRESS.

Of the funds made available under Public Law 111–68 for the legislative branch, $245,000,000 in unobligated balances are permanently rescinded: *Provided*, That none of the funding available for the Legislative Branch be available for any pilot program for mailings of postal patron postcards by Senators for the purpose of providing notice of a town meeting by a Senator in a county (or equivalent unit of local government) at which the Senator will personally attend.

SEC. 802. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF AGRICULTURE.

Of the funds made available under Public Law 111-80 for the Department of Agriculture, $1,342,800,000 in unobligated balances are permanently rescinded: *Provided*, That as proposed by the President's FY 2010 budget, no funding may be available for the Economic Action Program, which is duplicative of USDA's Urban and Community Forestry program, has been poorly managed, and has funded questionable initiatives such as music festivals: *Provided further*, That no funding may be available for the High Energy Cost grant program, which is duplicative of the $6,000,000,000 in low interest loan programs offered by the UDSA's Rural Utilities Service: *Provided further*, That as included in the Congressional Budget Office's August 2009 Budget Options document, which states that the program ''merely replaces private spending with public spending'', no funding may be available for the Foreign Market Development Program, which also duplicates the Foreign Agricultures Service's Market Access Program: *Provided further*, That the Secretary shall consolidate and reduce the cost of administering the numerous programs administered by the Department relating to encouraging conservation, including the Conservation Stewardship Program, which the Government Accountability Office revealed in 2006 is duplicative of other USDA conservations efforts, including the Conservation Reserve Program, the Wetlands Reserve Program, the Farmland Protection Program, the Wildlife Habitat Program, and the Grassland Reserve Program: *Provided further*, That the Secretary shall work with the Secretary of Energy to consolidate and reduce the cost of administering the numerous programs administered by both Departments relating to bioenergy promotion, including the Department of Energy's Biomass Program, the Department of Agriculture's Biomass Crop Assistance Program, the Biorefinery Program for Advanced Fuels Program, and the Biobased Products and Bioenergy Program, the Biorefinery Repowering Assistance Program, the New Era Rural Technology Competitive Grants Program, and the Feedstock Flexibility Program: *Provided further*, That the Secretary shall work with the Secretary of Energy to consolidate and reduce the cost of administering the numerous programs administered by both Departments relating to alternative energy, including the Department of Energy's Geothermal Technology Program, Wind Energy Program, and the Solar Energy Technologies Program, and the Department of Agriculture's Rural Energy for America Program: the Secretary shall consolidate and reduce the cost of administering the numerous programs administered by the Department that provide food assistance to foreign countries, including the USAD Foreign Agricultural Service, the food for Progress Program, the McGovern-Dole International Food for Education and Child Nutrition Program, the food for Peace programs, the Bill Emerson Humanitarian Trust, and the Local and Regional Procurement Projects; *Provided further*, That for any program for which funding is prohibited in this section, any activities under that program that are deemed by the Secretary to be necessary or essential, the Secretary shall assign to an existing program for which funding is not prohibited in this section.

SEC. 803. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF COMMERCE.

Of the funds made available under Public Law 111–117 for the Department of Commerce, $697,850,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary shall work with the Secretary of Agriculture to consolidate and reduce the cost of administering the programs administered by both Departments that provide rural public telecom grants, including eliminating USDA's grants to rural public broadcasting stations, as proposed by the President's FY 2010 budget, which duplicates the Department of Commerce's Public Telecommunications Facilities Program, and the Corporation for Public Broadcasting, which also receives Federal funding: *Provided further*, That no funding may be made available for the Hollings Manufacturing Extension Partnership Program, which duplicates the Small Business Administration's Small Business Development Centers and which has been found by the Office of Management and Budget to ''only serve a small percentage of small manufactures each year'': *Provided further*, That the Secretary shall work with the Secretaries of Housing and Rural Development and Agriculture to consolidate and reduce the cost of administering the programs administered by these Departments relating to Economic Development, including the following programs, the Economic Development Administration, the Community Development Block Grants, Rural Development Administration grants, the National Community Development Initiative, the Brownfields Economic Development Initiative, the Rural Housing and Economic Development grants, the Community Service Block Grants, the Delta Regional Authority, the Community Economic Development grants, and the Historically Underutilized Business Zone program: *Provided further*, That for any program for which funding is prohibited in this section, any activities under that program that are deemed by the Secretary to be necessary or essential, the Secretary shall assign to an existing program for which funding is not prohibited in this section.

SEC. 804. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF EDUCATION.

Of the funds made available under Public Law 111–117 for the Department of Education, $3,213,800,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary shall work with Secretaries from other Federal Departments to consolidate and reduce the cost of administering the at least 30 Federal programs that provide

financial assistance to students to support postsecondary education in the forms of grants, scholarships, fellowships, and other types of stipends, including the 15 such programs at the Department of Education, such as the Academic Competitiveness Grants, the TEACH grants, the Federal Supplemental Education Opportunity Grants, the Leveraging Educational Assistance Program, the Javits Fellowships Program, Graduate Assistance in Areas of National Need program, as well as the three similar programs administered by the National Science Foundation, such as the Robert Noyce Teacher Scholarship program, as well as a program at the Department of Justice and one at the Health Resources Administration: *Provided further*, That the Secretary shall work with Secretaries from other Federal Departments to consolidate and reduce the cost of administering the at least 69 Federal programs dedicated in full or in part to supporting early childhood education and child care, as outlined by the Government Accountability Office, which found that these 69 education programs are spread across 10 different agencies: *Provided further*, That the Secretary shall work with Secretaries from other Federal Departments to consolidate and reduce the cost of administering the at least 105 Federal science, technology, math, and engineering education programs, as outlined by the Academic Competitiveness Council, which found that these 105 education programs are spread across numerous Federal agencies: *Provided further*, That the Secretary shall work with Secretaries from other Federal Departments to consolidate and reduce the cost of administering the numerous student foreign exchange and international education programs, including the at least 14 programs at the Department, including the American Overseas Research Centers, Business and International Education, Centers for International Business Education, the Foreign Language and Area Studies Fellowships, the Institute for International Public Policy, the International Research and Studies, the Language Resource Centers, the National Resource Centers, the Technological Innovation and Cooperation for Foreign Information Access, and the Undergraduate International Studies and Foreign Language Program, the State Department's Benjamin A. Gilman International Scholarship Program, the Boren National Security Education Trust Fund, and exchange programs administered by the National Science Foundation's Office of International Science and Engineering.

SEC. 805. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF ENERGY.

Of the funds made available under Public Law 111-85 for the Department of Energy, $1,321,800,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary shall work with Secretaries from other Federal Departments to consolidate and reduce the cost of administering the various Federal weatherization efforts, including Federal funding for State-run weatherization projects, the Department of Energy's Energy Conservation and Weatherization grants, as well as the Department of Energy's building Technologies Program, the LIHEAP weatherization efforts, the National Park Service's Weatherization and Improving the Energy Efficiency of Historic Buildings program, and the Department of Housing and Urban Development's Energy Innovation Fund: *Provided further*, That the Secretary shall consolidate and reduce the cost of administering the various energy grant programs, including the Tribal Energy grant program, which overlaps with the Department's Energy Efficiency and Conservation Block Grants, and the Energy Start Energy Efficient appliance Rebate Program: *Provided further*, That the Secretary shall consolidate and reduce the cost of administering the various vehicle technology programs at the Department, including the Vehicle Technologies program, the Advanced Battery Manufacturing grants, the Advanced Technology Vehicles Manufacturing Loans Program, and the Innovative Technology Loan Guarantee Program.

SEC. 806. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Of the funds made available under Public Law 111–117 for the Department of Health and Human Services, $4,116,950,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary, in coordination with the heads of other Departments and agencies, shall consolidate the programs that support nonresidential buildings and facilities construction, including the 29 programs across 8 Federal agencies identified by the Government Accountability Office. The Secretary, in coordination with the Secretary of HUD and USDA and other appropriate departments and agencies, shall consolidate duplicative programs intended to reduce poverty and revitalize low-income communities, including the HHS Community Services Block Grant, the HUD Community Development Block Grant, and USDA Rural Development program: *Provided further*, That the Secretary shall work with Secretaries from other Federal Departments to consolidate and reduce the cost of administering the dozens of Federal programs, across multiple agencies, that funded childhood obesity programs, either as the main focus or as one component of the Federal program.

SEC. 807. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF HOMELAND SECURITY.

Of the funds made available under Public Law 111–83 for the Department of Homeland Security, $2,205,000,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary shall work with Secretaries from other Federal Departments to consolidate and reduce the cost of administering the dozens of Federal homeland security programs, as identified by the Office of Management and Budget, which states that ''a total of 31 agency budgets include Federal homeland security funding in 2010''.

SEC. 808. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

Of the funds made available under Public Law 111–117 for the Department of Housing and Urban Development, $2,302,450,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary shall work with Secretaries from other Federal Departments to consolidate and reduce the cost of administering the various Federal programs aimed at addressing homelessness, including the Supportive Housing Program, the Shelter Plus Care Program, the Single Room Occupancy Program, the Emergency Shelter Grant Program, programs at Health and Human Services such as the Basic Center Program, Projects for Assistance in Transition from Homelessness, and the Street Outreach Program, and also including the more than 23 housing programs identified by the Government Accounting Office that target or have special features for the elderly.

SEC. 809. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF INTERIOR.

Of the funds made available under Public Law 111–88 for the Department of Interior, $606,200,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary shall consolidate and reduce the cost of administering the at least 11 historic preservation programs at the Department, including the 9 preservation programs at the Heritage Preservation Services, such as the Federal Agency Preservation Assistance Program, the Historic Preservation Planning Program, the Technical Preservation Services for Historic Buildings, as well as the Save America's Treasures Grant Program, the Advisory Council on Historic Preservation, and the Preserve America program: *Provided further*, That the Secretary shall consolidate and reduce the cost of administering the various climate change impact programs at the Department, including the Bureau of Indian Affairs office Tackling Climate Impacts Initiative, the U.S. Geological Survey's National Climate Change and Wildlife Science Center, the U.S. Fish and Wildlife Service climate change initiatives, and the state and tribal wildlife conservation grants which are being provided to entities to adapt and mitigate the impacts of climate change on wildlife: *Provided further*, That the Secretary shall consolidate and reduce the cost of administering the dozens of invasive species research, monitoring, and eradication programs at the Department, including the eight programs administered by the U.S. Fish and Wildlife Services, the similar programs administered by the Bureau of Land Management, the National Park Service, and the 4 Federal councils created to coordinate Federal invasive species efforts, the National Invasive Species Council, the National Invasive Species Information Center, the Federal Interagency Committee for the Management of Noxious and Exotic Weeds, and the Aquatic Nuisance Species Task Force.

SEC. 810. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF JUSTICE.

Of the funds made available under Public Law 111–117 for the Department of Justice, $1,385,100,000 in unobligated balances are permanently rescinded: *Provided*, That the Attorney General in coordination with the heads of other Departments and agencies, shall consolidate Federal offender reentry programs, including those authorized by the Second Chance Act, the DOJ Office of Justice Programs Bureau of Justice Assistance Prisoner Reentry Initiative, the Department of Labor Reintegration of Ex-Offenders program, the Department of Education Lifeskills for State and Local Inmates Programs, and the HHS Young Offender Reentry Program: *Provided further*, That the Attorney General shall consolidate the four duplicative grant programs, including the State Formula Grant program, the Juvenile Delinquency Prevention Block Grant program, the Challenge/Demonstration Grant program, and the Title V grant program, administered under the Juvenile Justice and Delinquency Prevention Act and reduce the cost of administering such programs: *Provided further*, That the Attorney General, in coordination with the Secretary of Health and Human Services (HHS) and the Office of National Drug Control Policy (ONDCP), shall consolidate Federal programs that assist state drug courts, including substance abuse treatment services for offenders, such as the HHS Adult, Juvenile, and Family Drug Court program, the Substance Abuse and Mental

Health Services Administration Drug Court Treatment Program, the DOJ Drug Court Program, the ONDCP National Drug Court Institute: *Provided further*, That the Attorney General shall eliminate the National Drug Intelligence Center (NDIC) which duplicates the activities of 19 other drug intelligence centers and reassign any essential duties performed by NDIC.

SEC. 811. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF LABOR.

Of the funds made available under Public Law 111–117 for the Department of Labor, $679,100,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary, in coordination with the heads of other Departments and agencies, shall consolidate the 18 programs administered by the Department and ten programs administered by other agencies that support job training and employment, such as the Adult Employment and Training Activities program, Dislocated Worked Employment and Training Activities, Youth Activities, YouthBuild, and the Migrant and Seasonal Farmers program and reduce the cost of administering such programs.

SEC. 812. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF STATE.

Of the funds made available under Public Law 111–117 for the Department of State, $1,318,550,000 in unobligated balances are permanently rescinded: *Provided*, That in accordance with the President's FY 2010 budget, no funding may be made available for the Center for Cultural and Technical Interchange Between East and West, which duplicates the State Departments cultural exchanges: *Provided further*, That no funding may be made available for the Asia Foundation, which duplicates efforts at USAID and the National Endowment for Democracy: *Provided further*, That for any program for which funding is prohibited in this section, any activities under that program that are deemed by the Secretary to be necessary or essential, the Secretary shall assign to an existing program for which funding is not prohibited in this section.

SEC. 813. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF TRANSPORTATION.

Of the funds made available under Public Law 111–117 for the Department of Transportation, $1,090,500,000 in unobligated balances are permanently rescinded: *Provided*, That the Secretary shall consolidate and reduce the costs of various duplicative highway programs, including the regionally specific development programs, the Federal-Aid Highway Programs under chapter I of title 23, United States Code, the Research programs authorized under title V of Public Law 109–59: *Provided further*, That the Secretary shall consolidate and reduce the costs of various rail-line relocation grant programs, including the Rail-Line Relocation and Improvement Capital Program, and the Highway-Rail Crossings Program, the Railroad Rehabilitation and Improvement Financing program.

SEC. 814. REPEAL OF EXCESSIVE OVERHEAD, ELIMINATION OF WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS AT THE DEPARTMENT OF TREASURY.

Of the funds made available under Public Law 111–117 for the Department of Treasury, $677,650,000 in unobligated balances are permanently rescinded.

SEC. 815. RESCISSION OF UNSPENT AND UNCOMMITTED FUNDS FEDERAL FUNDS.

Notwithstanding any other provision of law, of the $657,000,000,000 in Federal funds unobligated at the end of fiscal year 2009, the discretionary, unexpired funds available for more than 2 consecutive fiscal years, as of the date of enactment of this Act, are permanently rescinded.

SEC. 816. IMPLEMENTATION OF RESCISSIONS.

All rescissions required by this title—

(1) shall come from discretionary amounts appropriated; and

(2) should be rescinded not later 14 days after the date of enactment of this title.

SA 3362. Mr. WARNER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 131, insert the following:

SEC. 131A. INCREASE IN ALTERNATIVE SIMPLIFIED RESEARCH CREDIT.

(a) INCREASED CREDIT.—Paragraph (5) of section 41(c) (relating to election of alternative simplified credit) is amended—

(1) by striking ''14 percent (12 percent in the case of taxable years ending before January 1, 2009)'' in subparagraph (A) and inserting ''17 percent'', and

(2) by striking ''6 percent'' in subparagraph (B)(ii) and inserting ''8.5 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SA 3363. Mr. KERRY (for himself, Ms. SNOWE, Ms. LANDRIEU, and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. _____. TREATMENT OF CERTAIN SMALL BUSINESS STOCK.

(a) INCREASE IN EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.—

(1) IN GENERAL.—Paragraph (3) of section 1202(a) is amended to read as follows:

''(C) SPECIAL RULES FOR 2009 AND 2010.—

''(i) 75 PERCENT EXCLUSION.—In the case of qualified small business stock acquired after February 17, 2009, and before the date of the enactment of the American Workers, State, and Business Relief Act of 2010—

''(I) paragraph (1) shall be applied by substituting '75 percent' for '50 percent', and

''(II) paragraph (2) shall not apply.

''(ii) 100 PERCENT EXCLUSION.—In the case of qualified small business stock acquired on or after the date of the enactment of the American Workers, State, and Business Relief Act of 2010 and before January 1, 2011—

''(I) paragraph (1) shall be applied by substituting '100 percent' for '50 percent', and

''(II) paragraph (2) shall not apply.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to stock acquired after the date of the enactment of this Act.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) of such Code is amended by striking '', (5), and (7)'' and inserting ''and (5)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to stock issued after December 31, 2009.

(c) TREATMENT OF STOCK OWNED BY SMALL BUSINESS INVESTMENT COMPANIES.—

(1) IN GENERAL.—Section 1202(c) is amended by adding at the end the following new paragraph:

''(4) TREATMENT OF STOCK OWNED BY SMALL BUSINESS INVESTMENT COMPANIES.—Notwithstanding any other provision of this subsection or subsection (e), the term 'qualified small business stock' shall include stock of a corporation—

''(A) held by a small business investment company licensed and operating under the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) or held by a company engaged in the licensing process under such Act where the investment has been approved by the Small Business Administration, and

''(B) issued after December 31, 2009, and before January 1, 2011.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to stock issued after December 31, 2009.

SA 3364. Mr. KERRY (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. _____. REMOVAL OF CELLULAR TELEPHONES (OR SIMILAR TELECOMMUNICATIONS EQUIPMENT) FROM LISTED PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 280F(d)(4) (defining listed property) is amended by inserting ''and'' at the end of clause (iv), by striking clause (v), and by redesignating clause (vi) as clause (v).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2009.

SA 3365. Mr. WHITEHOUSE (for himself, Mr. KERRY, Mr. LIEBERMAN, Mr. DODD, Mrs. SHAHEEN, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. GAO STUDY.

Not later than 180 days after the date of enactment of this Act, the Comptroller General shall report to Congress detailing—

(1) the pattern of job loss in the New England States over the past 20 years;

(2) the role of the off-shoring of manufacturing jobs in overall job loss in the region; and

(3) recommendations to attract industries and bring jobs to the region.

SA 3366. Mr. LEMIEUX submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title VI, insert the following:

SEC. 6___. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.

(a) PRE-DISASTER HAZARD MITIGATION HOME IMPROVEMENTS.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) in subparagraph (I), by striking ''and'' after the semicolon at the end;

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following:

''(J) pre-disaster hazard mitigation home improvements designed to decrease the loss of life or property resulting from a natural disaster (as defined in section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a)) if the home improvements result in increased energy efficiency or weatherization, including wind resistant and energy efficient windows, window coverings, doors, and roofing (including secondary roof water barriers); and''.

(b) LIMITATION ON EXPENDITURES.—Section 415(c)(1) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(1)) is amended in the first sentence by striking ''$6,500'' and inserting ''$8,500''.

SA 3367. Mr. THUNE (for himself, Mr. ENZI, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3345 proposed by Ms. LANDRIEU and intended to be proposed to the amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE VIII—SMALL BUSINESS LOANS

SEC. 801. SHORT TITLE.

This title may be cited as the ''Small Business Job Creation and Access to Capital Act of 2010''.

SEC. 802. SECTION 7(a) BUSINESS LOANS.

(a) AMENDMENT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking ''75 percent'' and inserting ''90 percent''; and

(B) in clause (ii), by striking ''85 percent'' and inserting ''90 percent''; and

(2) in paragraph (3)(A), by striking ''$1,500,000 (or if the gross loan amount would exceed $2,000,000'' and inserting ''$4,500,000 (or if the gross loan amount would exceed $5,000,000''.

(b) PROSPECTIVE REPEAL.—Effective January 1, 2011, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking ''90 percent'' and inserting ''75 percent''; and

(B) in clause (ii), by striking ''90 percent'' and inserting ''85 percent''; and

(2) in paragraph (3)(A), by striking ''$4,500,000'' and inserting ''$3,750,000''.

SEC. 803. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.

Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (i), by striking ''$1,500,000'' and inserting ''$5,000,000'';

(2) in clause (ii), by striking ''$2,000,000'' and inserting ''$5,000,000'';

(3) in clause (iii), by striking ''$4,000,000'' and inserting ''$5,500,000'';

(4) in clause (iv), by striking ''$4,000,000'' and inserting ''$5,500,000''; and

(5) in clause (v), by striking ''$4,000,000'' and inserting ''$5,500,000''.

SEC. 804. MAXIMUM LOAN LIMITS UNDER MICROLOAN PROGRAM.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking ''$35,000'' and inserting ''$50,000'';

(2) in paragraph (3)—

(A) in subparagraph (C), by striking ''$3,500,000'' and inserting ''$5,000,000''; and

(B) in subparagraph (E), by striking ''$35,000'' each place that term appears and inserting ''$50,000''; and

(3) in paragraph (11)(B), by striking ''$35,000'' and inserting ''$50,000''.

SEC. 805. NEW MARKETS VENTURE CAPITAL COMPANY INVESTMENT LIMITATIONS.

Section 355 of the Small Business Investment Act of 1958 (15 U.S.C. 689d) is amended by adding at the end the following:

''(e) INVESTMENT LIMITATIONS.—

''(1) DEFINITION.—In this subsection, the term 'covered New Markets Venture Capital company' means a New Markets Venture Capital company—

''(A) granted final approval by the Administrator under section 354(e) on or after March 1, 2002; and

''(B) that has obtained a financing from the Administrator.

''(2) LIMITATION.—Except to the extent approved by the Administrator, a covered New Markets Venture Capital company may not acquire or issue commitments for securities under this title for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of—

''(A) the regulatory capital of the covered New Markets Venture Capital company; and

''(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.''.

SEC. 806. ALTERNATIVE SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

''(5) ALTERNATIVE SIZE STANDARD.—

''(A) IN GENERAL.—The Administrator shall establish an alternative size standard for applicants for business loans under section 7(a) and applicants for development company loans under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

''(B) INTERIM RULE.—Until the date on which the alternative size standard established under subparagraph (A) is in effect, an applicant for a business loan under section 7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if—

''(i) the maximum tangible net worth of the applicant is not more than $15,000,000; and

''(ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than $5,000,000.''.

SEC. 807. SALE OF 7(a) LOANS IN SECONDARY MARKET.

Section 5(g) of the Small Business Act (15 U.S.C. 634(g)) is amended by adding at the end the following:

''(6) If the amount of the guaranteed portion of any loan under section 7(a) is more than $500,000, the Administrator shall, upon request of a pool assembler, divide the loan guarantee into increments of $500,000 and 1 increment of any remaining amount less than $500,000, in order to permit the maximum amount of any loan in a pool to be not more than $500,000. Only 1 increment of any loan guarantee divided under this paragraph may be included in the same pool. Increments of loan guarantees to different borrowers that are divided under this paragraph may be included in the same pool.''.

SEC. 808. ONLINE LENDING PLATFORM.

It is the sense of Congress that the Administrator of the Small Business Administration should establish a website that—

(1) lists each lender that makes loans guaranteed by the Small Business Administration and provides information about the loan rates of each such lender; and

(2) allows prospective borrowers to compare rates on loans guaranteed by the Small Business Administration.

SEC. 809. LOW-INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.

(a) REFINANCING.—Section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by adding at the end the following:

''(C) REFINANCING NOT INVOLVING EXPANSIONS.—

''(i) DEFINITIONS.—In this subparagraph—

''(I) the term 'borrower' means a small business concern that submits an application to a development company for financing under this subparagraph;

''(II) the term 'eligible fixed asset' means tangible property relating to which the Administrator may provide financing under this section; and

''(III) the term 'qualified debt' means indebtedness—

''(aa) that—

''(AA) was incurred not less than 2 years before the date of the application for assistance under this subparagraph;

''(BB) is a commercial loan;

''(CC) is not subject to a guarantee by a Federal agency;

''(DD) the proceeds of which were used to acquire an eligible fixed asset;

''(EE) was incurred for the benefit of the small business concern; and

''(FF) is collateralized by eligible fixed assets; and

''(bb) for which the borrower has been current on all payments for not less than 1 year before the date of the application.

''(ii) AUTHORITY.—A project that does not involve the expansion of a small business concern may include the refinancing of qualified debt if—

''(I) the amount of the financing is not more than 80 percent of the value of the collateral for the financing, except that, if the appraised value of the eligible fixed assets serving as collateral for the financing is less than the amount equal to 125 percent of the amount of the financing, the borrower may provide additional cash or other collateral to eliminate any deficiency;

''(II) the borrower has been in operation for all of the 2-year period ending on the date of the loan; and

''(III) for a financing for which the Administrator determines there will be an additional cost attributable to the refinancing of the qualified debt, the borrower agrees to pay a fee in an amount equal to the anticipated additional cost.

''(iii) FINANCING FOR BUSINESS EXPENSES.—

''(I) FINANCING FOR BUSINESS EXPENSES.—The Administrator may provide financing to a borrower that receives financing that includes a refinancing of qualified debt under clause (ii), in addition to the refinancing under clause (ii), to be used solely for the payment of business expenses.

''(II) APPLICATION FOR FINANCING.—An application for financing under subclause (I) shall include—

''(aa) a specific description of the expenses for which the additional financing is requested; and

''(bb) an itemization of the amount of each expense.

''(III) CONDITION ON ADDITIONAL FINANCING.—A borrower may not use any part of the financing under this clause for non-business purposes.

''(iv) LOANS BASED ON JOBS.—

''(I) JOB CREATION AND RETENTION GOALS.—

''(aa) IN GENERAL.—The Administrator may provide financing under this subparagraph for a borrower that meets the job creation goals under subsection (d) or (e) of section 501.

''(bb) ALTERNATE JOB RETENTION GOAL.—The Administrator may provide financing under this subparagraph to a borrower that does not meet the goals described in item (aa) in an amount that is not more than the product obtained by multiplying the number of employees of the borrower by $65,000.

''(II) NUMBER OF EMPLOYEES.—For purposes of subclause (I), the number of employees of a borrower is equal to the sum of—

''(aa) the number of full-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; and

''(bb) the product obtained by multiplying—

''(AA) the number of part-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; by

''(BB) the quotient obtained by dividing the average number of hours each part time employee of the borrower works each week by 40.

''(v) NONDELEGATION.—Notwithstanding section 508(e), the Administrator may not permit a premier certified lender to approve or disapprove an application for assistance under this subparagraph.

''(vi) TOTAL AMOUNT OF LOANS.—The Administrator may provide not more than a total of $4,000,000,000 of financing under this subparagraph for each fiscal year.''.

(b) PROSPECTIVE REPEAL.—Effective 2 years after the date of enactment of this Act, section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by striking subparagraph (C).

(c) TECHNICAL CORRECTION.—Section 502(2)(A)(i) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)(i)) is amended by striking ''subparagraph (B) or (C)'' and inserting ''clause (ii), (iii), (iv), or (v)''.

SEC. 810. SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by striking subsection (l) and inserting the following:

''(l) SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'eligible intermediary'—

''(i) means a private, nonprofit entity that—

''(I) seeks or has been awarded a loan from the Administrator to make loans to small business concerns under this subsection; and

''(II) has not less than 1 year of experience making loans to startup, newly established, or growing small business concerns; and

''(ii) includes—

''(I) a private, nonprofit community development corporation;

''(II) a consortium of private, nonprofit organizations or nonprofit community development corporations; and

''(III) an agency of or nonprofit entity established by a Native American Tribal Government; and

''(B) the term 'Program' means the small business intermediary lending pilot program established under paragraph (2).

''(2) ESTABLISHMENT.—There is established a 3-year small business intermediary lending pilot program, under which the Administrator may make direct loans to eligible intermediaries, for the purpose of making loans to startup, newly established, and growing small business concerns.

''(3) PURPOSES.—The purposes of the Program are—

''(A) to assist small business concerns in areas suffering from a lack of credit due to poor economic conditions or changes in the financial market; and

''(B) to establish a loan program under which the Administrator may provide loans to eligible intermediaries to enable the eligible intermediaries to provide loans to startup, newly established, and growing small business concerns for working capital, real estate, or the acquisition of materials, supplies, or equipment.

''(4) LOANS TO ELIGIBLE INTERMEDIARIES.—

''(A) APPLICATION.—Each eligible intermediary desiring a loan under this subsection shall submit an application to the Administrator that describes—

''(i) the type of small business concerns to be assisted;

''(ii) the size and range of loans to be made;

''(iii) the interest rate and terms of loans to be made;

''(iv) the geographic area to be served and the economic, poverty, and unemployment characteristics of the area;

''(v) the status of small business concerns in the area to be served and an analysis of the availability of credit; and

''(vi) the qualifications of the applicant to carry out this subsection.

''(B) LOAN LIMITS.—No loan may be made to an eligible intermediary under this subsection if the total amount outstanding and committed to the eligible intermediary by the Administrator would, as a result of such loan, exceed $1,000,000 during the participation of the eligible intermediary in the Program.

''(C) LOAN DURATION.—Loans made by the Administrator under this subsection shall be for a term of 20 years.

''(D) APPLICABLE INTEREST RATES.—Loans made by the Administrator to an eligible intermediary under the Program shall bear an annual interest rate equal to 1.00 percent.

''(E) FEES; COLLATERAL.—The Administrator may not charge any fees or require collateral with respect to any loan made to an eligible intermediary under this subsection.

''(F) DELAYED PAYMENTS.—The Administrator shall not require the repayment of principal or interest on a loan made to an eligible intermediary under the Program during the 2-year period beginning on the date of the initial disbursement of funds under that loan.

''(G) MAXIMUM PARTICIPANTS AND AMOUNTS.—During each of fiscal years 2010, 2011, and 2012, the Administrator may make loans under the Program—

''(i) to not more than 20 eligible intermediaries; and

''(ii) in a total amount of not more than $20,000,000.

''(5) LOANS TO SMALL BUSINESS CONCERNS.—

''(A) IN GENERAL.—The Administrator, through an eligible intermediary, shall make loans to startup, newly established, and growing small business concerns for working capital, real estate, and the acquisition of materials, supplies, furniture, fixtures, and equipment.

''(B) MAXIMUM LOAN.—An eligible intermediary may not make a loan under this subsection of more than $200,000 to any 1 small business concern.

''(C) APPLICABLE INTEREST RATES.—A loan made by an eligible intermediary to a small business concern under this subsection, may have a fixed or a variable interest rate, and shall bear an interest rate specified by the eligible intermediary in the application of the eligible intermediary for a loan under this subsection.

''(D) REVIEW RESTRICTIONS.—The Administrator may not review individual loans made by an eligible intermediary to a small business concern before approval of the loan by the eligible intermediary.

''(6) TERMINATION.—The authority of the Administrator to make loans under the Program shall terminate 3 years after the date of enactment of the Small Business Job Creation and Access to Capital Act of 2010.''.

(b) RULEMAKING AUTHORITY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue regulations to carry out section 7(l) of the Small Business Act, as amended by subsection (a).

(c) AVAILABILITY OF FUNDS.—Any amounts provided to the Administrator for the purposes of carrying out section 7(l) of the Small Business Act, as amended by subsection (a), shall remain available until expended.

SEC. 811. PROHIBITION ON USING TARP FUNDS OR TAX INCREASES.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in this title or the amendments made by this title shall be construed to limit the ability of Congress to appropriate funds.

(b) TARP FUNDS AND TAX INCREASES.—

(1) IN GENERAL.—Any covered amounts may not be used to carry out this title or an amendment made by this title.

(2) DEFINITION.—In this subsection, the term ''covered amounts'' means—

(A) the amounts made available to the Secretary of the Treasury under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5201 et seq.) to purchase (under section 101) or guarantee (under section 102) assets under that Act; and

(B) any revenue increase attributable to any amendment to the Internal Revenue Code of 1986 made during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

SA 3368. Mr. FEINGOLD (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE _____—RESCISSION OF UNUSED TRANSPORTATION EARMARKS AND GENERAL REPORTING REQUIREMENT

SEC. __01. DEFINITION.

In this title, the term ''earmark'' means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark, as defined for purposes of Rule XXI of the Rules of the House of Representatives.

SEC. __02. RESCISSION.

Any appropriated earmark provided for the Department of Transportation with more than 90 percent of the appropriated amount remaining available for obligation at the end of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year.

SEC. __03. AGENCY WIDE IDENTIFICATION AND REPORTS.

(a) AGENCY IDENTIFICATION.—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(b) ANNUAL REPORT.—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(1) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance, the year when the funding expires, if applicable, and recommendations and justifications for whether each earmark should be rescinded or retained in the next fiscal year;

(2) the number of rescissions resulting from this title and the annual savings resulting from this title for the previous fiscal year; and

(3) a listing and accounting for earmarks provided for the Department of Transportation scheduled to be rescinded at the end of the current fiscal year.

SA 3369. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, strike lines 3 through 13.

SA 3370. Mr. ROCKEFELLER (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, insert the following:

SEC. _____. MODIFICATIONS TO MINE RESCUE TEAM TRAINING CREDIT AND ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

(a) MINE RESCUE TEAM TRAINING CREDIT ALLOWABLE AGAINST AMT.—Subparagraph (B) of section 38(c)(4) is amended—

(1) by redesignating clauses (vi), (vii), and (viii) as clauses (vii), (viii), and (ix), respectively, and

(2) by inserting after clause (v) the following new clause:

''(vi) the credit determined under section 45N,''.

(b) ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT ALLOWABLE AGAINST AMT.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

''(vii) SPECIAL RULE FOR ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.—Clause (i) shall not apply to amounts deductible under section 179E.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SA 3371. Mr. ROCKEFELLER (for himself, Mr. SPECTER, and Mr. HATCH) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

SEC. _____. EXTENSION AND MODIFICATION OF SECTION 45 CREDIT FOR REFINED COAL FROM STEEL INDUSTRY FUEL.

(a) CREDIT PERIOD.—

(1) IN GENERAL.—Subclause (II) of section 45(e)(8)(D)(ii) is amended to read as follows:

''(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the date that the facility first produces steel industry fuel that is sold to an unrelated person after September 30, 2008, and ending 2 years after such date.''.

(2) CONFORMING AMENDMENT.—Section 45(e)(8)(D) is amended by striking clause (iii) and by redesignating clause (iv) as clause (iii).

(b) EXTENSION OF PLACED-IN-SERVICE DATE.—Subparagraph (A) of section 45(d)(8) is amended—

(1) by striking ''(or any modification to a facility)'', and

(2) by striking ''2010'' and inserting ''2011''.

(c) CLARIFICATIONS.—

(1) STEEL INDUSTRY FUEL.—Subclause (I) of section 45(c)(7)(C)(i) is amended by inserting '', a blend of coal and petroleum coke, or other coke feedstock'' after ''on coal''.

(2) OWNERSHIP INTEREST.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

''With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person's rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.''.

(3) PRODUCTION AND SALE.—Subparagraph (D) of section 45(e)(8), as amended by subsection (a)(2), is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner manufactures such steel industry fuel from coal, a blend of coal and petroleum coke, or other coke feedstock to which it has title. The sale of such steel industry fuel by the owner of the facility to a person who is not the owner of the facility shall not fail to qualify as a sale to an unrelated person solely because such purchaser may also be a ground lessor, supplier, or customer.''.

(d) SPECIFIED CREDIT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of section 38(c)(4)(B)(iii) is amended by inserting ''(in the case of a refined coal production facility producing steel industry fuel, during the credit period set forth in section 45(e)(8)(D)(ii)(II))'' after ''service''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall take effect on the date of the enactment of this Act.

(2) CLARIFICATIONS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by the Energy Improvement and Extension Act of 2008.

SA 3372. Mr. MERKLEY (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following:

SEC. 6___. QUALIFYING TIMBER CONTRACT OPTIONS.

(a) DEFINITIONS.—In this section:

(1) QUALIFYING CONTRACT.—The term ''qualifying contract'' means a contract that has not been terminated by the Bureau of Land Management for the sale of timber on lands administered by the Bureau of Land Management that meets all of the following criteria:

(A) The contract was awarded during the period beginning on January 1, 2005, and ending on December 31, 2008.

(B) There is unharvested volume remaining for the contract.

(C) The contract is not a salvage sale.

(D) The Secretary determined there is not an urgent need to harvest under the contract due to deteriorating timber conditions that developed after the award of the contract.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of Bureau of Land Management.

(3) TIMBER PURCHASER.—The term ''timber purchaser'' means the party to the qualifying contract for the sale of timber from lands administered by the Bureau of Land Management.

(b) MARKET-RELATED CONTRACT EXTENSION OPTION.—Upon a timber purchaser's written request, the Secretary may make a one-time modification to the qualifying contract to add 3 years to the contract expiration date if the written request—

(1) is received by the Secretary not later than 90 days after the date of enactment of this Act; and

(2) contains a provision releasing the United States from all liability, including further consideration or compensation, resulting from the modification under this subsection of the term of a qualifying contract.

(c) REPORTING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report detailing a plan and timeline to promulgate new regulations authorizing the Bureau of Land Management to extend and renegotiate timber contracts due to changes in market conditions.

(d) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall promulgate new regulations authorizing the Bureau of Land Management to extend and renegotiate timber contracts due to changes in market conditions.

(e) NO SURRENDER OF CLAIMS.—This section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (b).

SA 3373. Mr. BENNETT submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. 01. 10-YEAR CARRYBACK OF OPERATING LOSSES OF SMALL BUSINESSES.

(a) IN GENERAL.—Section 172(b)(1) is amended by adding at the end the following new subparagraph:

''(I) CARRYBACK FOR 2010 AND 2011 NET OPERATING LOSSES OF SMALL BUSINESSES.—

''(i) IN GENERAL.—If a small business (as defined in subparagraph (F)(iii) determined by applying such subparagraph for a 10-taxable year period) elects the application of this subparagraph with respect to an applicable 2010 or 2011 net operating loss—

''(I) subparagraph (A)(i) shall be applied by substituting any whole number elected by the taxpayer which is more than 2 and less than 11 for '2',

''(II) subparagraph (E)(ii) shall be applied by substituting the whole number which is one less than the whole number substituted under subclause (I) for '2', and

''(III) subparagraph (F) shall not apply.

''(ii) APPLICABLE 2010 OR 2011 NET OPERATING LOSS.—For purposes of this subparagraph, the term 'applicable 2010 or 2011 net operating loss' means—

''(I) the taxpayer's net operating loss for any taxable year ending in 2010 or 2011, or

''(II) if the taxpayer elects to have this subclause apply in lieu of subclause (I), the taxpayer's net operating loss for any taxable year beginning in 2010 or 2011.

''(iii) ELECTION.—Any election under this subparagraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the taxpayer's return for the taxable year of the net operating loss. Any such election, once made, shall be irrevocable. Any election under this subparagraph may be made only with respect to 2 taxable years.''.

(b) ANTI-ABUSE RULES.—The Secretary of Treasury or the Secretary's designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this section, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to net operating losses arising in taxable years ending after December 31, 2009.

(2) TRANSITIONAL RULE.—In the case of a net operating loss for a taxable year ending before the date of the enactment of this Act—

(A) any election made under section 172(b)(3) of the Internal Revenue Code of 1986 with respect to such loss may (notwithstanding such section) be revoked before the applicable date, and

(B) any application under section 6411(a) of such Code with respect to such loss shall be treated as timely filed if filed before the applicable date.

For purposes of this paragraph, the term ''applicable date'' means the date which is 60 days after the date of the enactment of this Act.

SEC. 02. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues and the amount of any net increase in spending resulting from the enactment of this Act.

SA 3374. Mr. BAYH (for himself, Mrs. LINCOLN, Mr. WICKER, Mr. VITTER, and Mr. BOND) submitted an amendment intended to be proposed to amendment SA 3338 submitted by Mr. THUNE to the amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 121 and insert the following:

SEC. 121. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR REFUNDABLE CREDITS.—

''(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State's 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), plus any increase in the State housing credit ceiling for 2010 made by reason of section 1400N(c) (including as such section is applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, plus any increase in the State housing credit ceiling for 2010 made by reason of the application of such section 702(d)(2) and 704(b), multiplied by

''(B) 10.

For purposes of subparagraph (A)(ii), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) shall be applied without regard to clause (i)

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36A,''.

SEC. 122. LOW-INCOME HOUSING GRANT ELECTION.

(a) CLARIFICATION OF ELIGIBILITY OF LOW-INCOME HOUSING CREDITS FOR LOW-INCOME HOUSING GRANT ELECTION.—Paragraph (1) of section 1602(b) of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) by inserting '', plus any increase in the State housing credit ceiling for 2009 attributable to any State housing credit ceiling returned in 2009 to the State by reason of section 1400N(c) of such Code (including as such section is applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008)'' after ''1986'' in subparagraph (A), and

(2) by inserting '', plus any increase in the State housing credit ceiling for 2009 attributable to any additional State housing credit ceiling made by reason of the application of such section 702(d)(2) and 704(b)'' after ''such section'' in subparagraph (B).

(b) APPLICATION OF ADDITIONAL HOUSING CREDIT AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.—Subsection (b) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009, as amended by subsection (a), is amended by adding at the end the following flush sentence:

''For purposes of paragraph (1)(B), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) of such Code shall be applied without regard to clause (i).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of section 1602 of the American Recovery and Reinvestment Tax Act of 2009.

SA 3375. Mr. DORGAN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 161, between lines 10 and 11, insert the following:

SEC. _____. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking the period at the end of paragraph (5) and inserting '', and'', by redesignating paragraph (5) as paragraph (4), and by adding at the end the following new paragraph:

''(5) imported property income for the taxable year (determined under subsection (j) and reduced as provided in subsection (b)(5)).''.

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(j) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(5), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property;

''(B) the sale, exchange, or other disposition of imported property; or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated

person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States; or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States; or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(D) EXCEPTION FOR CERTAIN AGRICULTURAL COMMODITIES.—The term 'imported property' does not include any agricultural commodity which is not grown in the United States in commercially marketable quantities.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use intangible property (as defined in section 936(h)(3)(B)) in the United States.

''(B) UNITED STATES.—For purposes of this subsection, the term 'United States' includes the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(C) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(D) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''.

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

''(B) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (I), (J), and (K) as subparagraphs (J), (K), and (L), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(j)).''.

(3) CONFORMING AMENDMENT.—Clause (ii) of section 904(d)(2)(A) is amended by inserting ''or imported property income'' after ''passive category income''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended—

(A) by redesignating subclauses (II), (III), (IV), and (V) as subclauses (III), (IV), (V), and (VI), and

(B) by inserting after subclause (I) the following new subclause:

''(II) imported property income,''.

(2) The last sentence of paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes) is amended by striking ''subsection (a)(5)'' and inserting ''subsection (a)(4)''.

(3) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

SA 3376. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. EXTENSION OF THE RURAL COMMUNITY HOSPITAL DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Section 410A of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2272) is amended by adding at the end the following new subsection:

''(g) FIVE-YEAR EXTENSION OF DEMONSTRATION PROGRAM.—

''(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall conduct the demonstration program under this section for an additional 5-year period (in this section referred to as the '5-year extension period') that begins on the date immediately following the last day of the initial 5-year period under subsection (a)(5).

''(2) EXPANSION OF DEMONSTRATION STATES.—Notwithstanding subsection (a)(2), during the 5-year extension period, the Secretary shall expand the number of States with low population densities determined by the Secretary under such subsection to 20. In determining which States to include in such expansion, the Secretary shall use the same criteria and data that the Secretary used to determine the States under such subsection for purposes of the initial 5-year period.

''(3) INCREASE IN MAXIMUM NUMBER OF HOSPITALS PARTICIPATING IN THE DEMONSTRATION PROGRAM.—Notwithstanding subsection (a)(4), during the 5-year extension period, not more than 30 rural community hospitals may participate in the demonstration program under this section.

''(4) HOSPITALS IN DEMONSTRATION PROGRAM ON DATE OF ENACTMENT.—In the case of a rural community hospital that is participating in the demonstration program under this section as of the last day of the initial 5-year period, the Secretary—

''(A) shall provide for the continued participation of such rural community hospital in the demonstration program during the 5-year extension period unless the rural community hospital makes an election, in such form and manner as the Secretary may specify, to discontinue such participation; and

''(B) in calculating the amount of payment under subsection (b) to the rural community hospital for covered inpatient hospital services furnished by the hospital during such 5-year extension period, shall substitute, under paragraph (1)(A) of such subsection—

''(i) the reasonable costs of providing such services for discharges occurring in the first cost reporting period beginning on or after the first day of the 5-year extension period, for

''(ii) the reasonable costs of providing such services for discharges occurring in the first cost reporting period beginning on or after the implementation of the demonstration program.''.

(b) CONFORMING AMENDMENT.—Subsection (a)(5) of section 410A of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2272) is amended by inserting ''(in this section referred to as the 'initial 5-year period') and, as provided in subsection (g), for the 5-year extension period'' after ''5-year period''.

SA 3377. Mr. BEGICH submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 601, insert the following:

SEC. 602. NON-PROFIT COMMUNITY DEVELOPMENT ACTIVITIES IN REMOTE NATIVE VILLAGES.

For purposes of subchapter F of chapter 1 of the Internal Revenue Code of 1986, any trade or business substantially related to the participation and investment in fisheries in the Bering Sea and Aleutian Islands Management Area carried on by a Community Development Quota entity identified in section 305(i)(1)(D) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(1)(D) (as in effect on the date of the enactment of this Act) shall be considered substantially related to the exercise or performance of the purpose constituting the basis of such entity's exemption under section 501(a) of such Code if the conduct of such trade or business is in furtherance of one or more of the purposes specified in section 305(i)(1)(A) of such Act. For purposes of this section, trades or businesses substantially related to participation or investment in fisheries include harvesting, processing, transportation, sales, and marketing of fish and fish product.

SA 3378. Mr. NELSON of Florida submitted an amendment intended to be proposed to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title IV, insert the following:

SEC. 4____. EXECUTIVE COMPENSATION PAID BY SYSTEMICALLY SIGNIFICANT FINANCIAL INSTITUTIONS.

(a) SHORT TITLE.—This section may be cited as the ''Wall Street Compensation Reform Act of 2010''.

(b) EXECUTIVE COMPENSATION PAID BY SYSTEMICALLY SIGNIFICANT FINANCIAL INSTITUTIONS.—

(1) IN GENERAL.—Subsection (m) of section 162 is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR APPLICATION TO SYSTEMICALLY SIGNIFICANT FINANCIAL INSTITUTIONS.—

''(A) IN GENERAL.—In the case of an employer which is a systemically significant financial institution, this subsection shall apply with the following modifications:

''(i) NON-PUBLIC ENTITIES.—Paragraph (1) shall be applied by substituting 'employer' for 'publicly held corporation'.

''(ii) COVERED EMPLOYEES.—Paragraph (3) shall be applied—

''(I) by substituting 'such employee is among the 25 highest compensated employees' for so much of subparagraph (B) as precedes 'for the taxable year (other than the chief executive officer).', and

''(II) in addition to the individuals described in such paragraph (including the individuals described in subclause (I) of this clause), by treating any employee whose actions have a material impact on the risk exposure of the taxpayer as a covered employee.

Any employee whose applicable employee remuneration for the taxable year exceeds $1,000,000 is presumed to engage in actions which have a material impact on the risk exposure of the taxpayer unless the taxpayer submits an information return to the Secretary which describes the role and responsibilities of such employee and the reason such employee should not be considered to have a material impact on the risk exposure of the taxpayer. Such return shall be deemed to have been approved unless the Secretary notifies the taxpayer in writing within 90 days of the submission of such return. For purposes of this clause, the term 'employee' includes employees within the meaning of section 401(c)(1).

''(iii) REMUNERATION PAYABLE ON COMMISSION BASIS.—Subparagraph (B) of paragraph (4) shall not apply.

''(iv) DEFERRED DEDUCTION EXECUTIVE REMUNERATION.—In the case of any deferred deduction executive remuneration (as determined under rules similar to the rules of paragraph (5)(F), if executive remuneration for purposes of such paragraph included remuneration of covered employees as defined in clause (ii) of this paragraph, and if the year in which the applicable services were performed were treated as an applicable taxable year), rules similar to the rules of paragraph (5)(A)(ii) shall apply by substituting '$1,000,000' for '$500,000'.

''(B) SYSTEMICALLY SIGNIFICANT FINANCIAL INSTITUTION.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'systemically significant financial institution' means an entity which engages primarily in activities which are financial in nature (as determined under section 4(k) of the Bank Holding Company Act of 1956), and which—

''(I) owns or controls assets greater than $25,000,000,000, or

''(II) owns or controls assets greater than $10,000,000,000 and maintains a ratio of debt to equity which is greater than 20 to 1.

''(ii) CLASSIFICATION.—A taxpayer which is a systemically significant financial institution for any taxable year shall be a systemically significant financial institution for purposes of all subsequent taxable years.

''(C) SPECIAL RULES FOR PERFORMANCE-BASED COMPENSATION.—Remuneration payable solely on account of the attainment of one or more performance goals (hereinafter 'performance-based remuneration') which is paid by any systemically significant financial institution to any covered employee (as determined under subparagraph (A)(ii)) shall not be excluded under subparagraph (C) of paragraph (4) from treatment as applicable employee remuneration unless the following requirements are met:

''(i) PERFORMANCE-BASED COMPENSATION POOL.—The amount and allocation of the taxpayer's performance-based remuneration for covered employees are determined by the compensation committee required under paragraph (4)(C)(i) by taking into account—

''(I) the cost and quantity of capital required to support the risks taken by the taxpayer in the conduct of the financial activities of the taxpayer,

''(II) the cost and quantity of the liquidity risk assumed by the taxpayer in the conduct of such activities, and

''(III) the timing and likelihood of potential future revenues from such activities.

''(ii) MATERIAL TERMS.—The material terms of performance-based remuneration paid to covered employees specify that—

''(I) not less than 50 percent of such remuneration must vest no earlier than 5 years after the date of payment,

''(II) the proportion of such remuneration payable under vesting arrangements must increase based on the level of seniority or responsibility of the employee,

''(III) such remuneration payable under vesting arrangements must vest on a basis no faster than pro rata over the specified number of years of such arrangement (not to be less than 5),

''(IV) such remuneration is contingent on a formal agreement between the taxpayer and the employee which forbids the use of personal hedging strategies, remuneration-related insurance, or liability-related insurance which undermines the risk alignment effects of this paragraph,

''(V) in the case of an employer which is a publicly held corporation, not less than 50 percent of such remuneration must be in the form of stock in the employer, and

''(VI) in the case of remuneration paid to a chief executive officer or chief financial officer (if such chief financial officer is a covered employee) of a publicly held corporation, such remuneration must be subject to substantial forfeiture requirements in the event the taxpayer is required to prepare an accounting restatement due to material noncompliance, as a result of misconduct, with any financial reporting requirement under Federal securities laws.

For purposes of this clause, the date on which remuneration is deemed to have vested is the first date on which such remuneration is not subject to a substantial risk of forfeiture (within the meaning of section 409A(d)(4)).

''(D) SPECIAL RULE FOR PERFORMANCE-BASED COMPENSATION PAID BY NON-PUBLIC ENTITIES.—In the case of a systemically significant financial institution which is not a publicly held corporation, in addition to the requirements of subparagraph (C), paragraph (4)(C) shall be applied by substituting the following for clauses (i) through (iii) thereof:

''(i) the taxpayer commissions an annual, external review of its compensation policies and practices, including an examination and analysis of the taxpayer's compliance with the requirements of this subsection, and

''(ii) the taxpayer obtains certification from an unrelated third party commissioned to evaluated compensation practices that performance goals and other material terms under which the remuneration is to be paid are satisfied before any payment of such remuneration is made.'.

For purposes of the preceding sentence, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (b) or (c) of section 414 shall be treated as related taxpayers.

''(E) COORDINATION WITH RULES FOR EMPLOYERS PARTICIPATING IN THE TROUBLED ASSETS RELIEF PROGRAM.—In the case of any systemically significant financial institution to which paragraph (5) applies for any taxable year, this paragraph shall not apply to any payment of remuneration to which such paragraph applies.

''(F) REGULATORY AUTHORITY.—Not later than 180 days after the date of the enactment of this paragraph, the Secretary shall prescribe such guidance, rules, or regulations of general applicability as are necessary to carry out the purposes of this paragraph, including—

''(i) the method for valuing assets for purposes of subparagraph (B)(i),

''(ii) the method for calculating the ratio described in subparagraph (B)(i)(II),

''(iii) criteria for use in determining whether the actions of an employee have a material impact on the risk exposure of the taxpayer, and for determining what constitutes a substantial forfeiture requirement with respect to executive remuneration,

''(iv) criteria for determining whether a remuneration agreement constitutes a hedging strategy, and

''(v) anti-abuse rules to prevent the avoidance of the purposes of this paragraph, including by use of independent contractors.

''(G) APPLICATION OF PARAGRAPH.—This paragraph shall apply—

''(i) in the case of an entity which is a systemically significant financial institution in calendar 2010, to remuneration for services performed in calendar years beginning after 2010, and

''(ii) in the case of an entity which becomes a systemically significant financial institution in a calender year after 2010, to remuneration for services performed in calendar years beginning with the second calendar year after the year in which such entity first becomes a systemically significant financial institution.''.

(2) CONFORMING AMENDMENT.—Subparagraph (G) of section 162(m)(5) is amended by adding at the end the following: ''Paragraph (6) shall not apply to any payment of remuneration to which this paragraph applies.''.

(c) REPORT ON PERFORMANCE-BASED COMPENSATION PAID BY PUBLICLY HELD CORPORATIONS.—

(1) IN GENERAL.—Each systemically significant financial institution which is a publicly held corporation shall submit to the Chairman of the Securities and Exchange Commission, and shall make publicly available, an annual report on compensation policies and practices which describes—

(A) the process used to develop and modify such institution's compensation policies, including the composition and the mandate of such institution's compensation committee,

(B) the actions taken by such institution to comply with section 162(m)(6) of the Internal Revenue Code of 1986,

(C) any additional actions taken to implement the Principles for Sound Compensation Practices adopted by the Financial Stability Board established by the G-20 Finance Ministers and Central Bank Governors,

(D) the most important design characteristics of such institution's compensation policies, including criteria used for performance measurement and risk adjustment, the linkage between pay and performance, vesting policy and criteria, and the parameters used for allocating cash versus other forms of remuneration,

(E) aggregate quantitative information on remuneration paid by such institution, differentiating between remuneration paid to senior executive officers and to employees whose actions have a material impact on the risk exposure of such institution, which indicates the amounts of remuneration for the financial year (divided into fixed and variable remuneration) and the number of employees to which such remuneration was paid, and

(F) the amount of remuneration paid by such institution during the financial year preceding the year of the report which was nondeductible by reason of section 162(m) of such Code.

(2) TIMING OF REPORT.—The report required under paragraph (1) shall be submitted beginning in calendar year 2011 (or, if later, the

calendar year after the year in which an entity first becomes a systemically significant financial institution which is a publicly held corporation), at such time during such year and each subsequent year as the Chairman of the Securities and Exchange Commission shall specify.

(3) DEFINITIONS.—Any term used in this subsection which is also used in section 162(m)(6) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section.

(d) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply to remuneration for services performed after December 31, 2010.

SA 3379. Mr. NELSON of Florida (for himself and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. _____. CLEAN RENEWABLE WATER SUPPLY BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 54G. CLEAN RENEWABLE WATER SUPPLY BONDS.

''(a) CLEAN RENEWABLE WATER SUPPLY BONDS.—For purposes of this subpart, the term 'clean renewable water supply bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by qualified borrowers for 1 or more qualified projects,

''(2) the bond is issued by a qualified issuer,

''(3) the issuer designates such bond for purposes of this section, and

''(4) in the case of a bond issued by a qualified issuer before 2019, the bond is issued—

''(A) pursuant to an allocation by the Secretary to such issuer of a portion of the national clean renewable water supply bond limitation under subsection (b), and

''(B) not later than 6 months after the date that such qualified issuer receives an allocation under subsection (b).

''Any allocation under subsection (b) not used within the 6-month period described in paragraph (4)(B) shall be applied to increase the national clean renewable water supply bond limitation for the next succeeding application period under subsection (b)(2)(B).

''(b) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a national clean renewable water supply bond limitation for each calendar year before 2019. Such limitation is—

''(A) $0 for 2009,

''(B) $100,000,000 for 2010,

''(C) $150,000,000 for 2011,

''(D) $200,000,000 for 2012,

''(E) $250,000,000 for 2013,

''(F) $500,000,000 for 2014,

''(G) $750,000,000 for 2015,

''(H) $1,000,000,000 for 2016,

''(I) $1,500,000,000 for 2017, and

''(J) $1,750,000,000 for 2018.

''(2) ALLOCATION OF LIMITATION.—

''(A) IN GENERAL.—The limitation under paragraph (1) shall be allocated by the Secretary among qualified projects as provided in this paragraph.

''(B) METHOD OF ALLOCATION.—For each calendar year after 2009 for which there is a national clean renewable water supply bond limitation, the Secretary shall publish a notice soliciting applications by qualified issuers for allocations of such limitation to qualified projects. Such notice shall specify a 3-month application period in the calendar year during which the Secretary will accept such applications. Within 30 days after the end of such application period, and subject to the requirements of subparagraph (C), the Secretary shall allocate such limitation to qualified projects on a first-come, first-served basis, based on the order in which such applications are received from qualified issuers.

''(C) ALLOCATION REQUIREMENTS.—

''(i) CERTIFICATIONS REGARDING REGULATORY APPROVALS.—No portion of the national clean renewable water supply bond limitation shall be allocated to a qualified project unless the qualified issuer has certified in its application for such allocation that as of the date of such application the qualified issuer or qualified borrower has received all Federal and State regulatory approvals necessary to construct the qualified project.

''(ii) RESTRICTION ON ALLOCATIONS TO LARGE PROJECTS OR TO INDIVIDUAL PROJECTS.—

''(I) IN GENERAL.—Except as provided in subclause (III), for any calendar year the Secretary shall not allocate more than 60 percent of the national clean renewable water supply bond limitation to 1 or more large projects, more than 18 percent of such limitation to any single project that is a large project, or more than 12 percent of such limitation to any single project that is not a large project.

''(II) DEFINITION OF LARGE PROJECT.—For purposes of subclause (I), the term 'large project' means a qualified project that is designed to deliver more than 10,000,000 gallons of water per day.

''(III) EXCEPTION TO RESTRICTION.—Subclause (I) shall not apply to the extent its application would cause any portion of the national clean renewable water supply bond limitation for the calendar year to remain unallocated, based on applications for allocations of such limitation received by the Secretary during the application period referred to in subparagraph (B).

''(3) CARRYOVER OF UNUSED LIMITATION.—If the clean renewable water supply bond limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess.

''(c) MATURITY LIMITATION.—

''(1) IN GENERAL.—A bond shall not be treated as a clean renewable water supply bond if the maturity of such bond exceeds 20 years.

''(2) COORDINATION WITH SECTION 54A.—The maturity limitation in section 54A(d)(5) shall not apply to any clean renewable water supply bond.

''(d) REFINANCING RULES.—For purposes of paragraph (a)(1), a qualified project may be refinanced with proceeds of a clean renewable water supply bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

''(e) DEFINITIONS.—For purposes of this section—

''(1) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

''(2) LOCAL WATER COMPANY.—The term 'local water company' means any entity responsible for providing water service to the general public (including electric utility, industrial, agricultural, commercial, or residential users) pursuant to State or tribal law.

''(3) QUALIFIED BORROWER.—The term 'qualified borrower' means a governmental body or a local water company.

''(4) QUALIFIED DESALINATION FACILITY.—The term 'qualified desalination facility' means any facility that is used to produce new water supplies by desalinating seawater, groundwater, or surface water if the facility's source water includes chlorides or total dissolved solids that, either continuously or seasonally, exceed maximum permitted levels for primary or secondary drinking water under Federal or State law (as in effect on the date of issuance of the issue).

''(5) QUALIFIED GROUNDWATER REMEDIATION FACILITY.—The term 'qualified groundwater remediation facility' means any facility that is used to reclaim contaminated or naturally impaired groundwater for direct delivery for potable use if the facility's source water includes constituents that exceed maximum contaminant levels regulated under the Safe Drinking Water Act (as in effect on the date of the enactment of this section).

''(6) QUALIFIED ISSUER.—The term 'qualified issuer' means—

''(A) a governmental body, or

''(B) in the case of a State or political subdivision thereof (as defined for purposes of section 103), any entity qualified to issue tax-exempt bonds under section 103 on behalf of such State or political subdivision.

''(7) QUALIFIED PROJECT.—

''(A) IN GENERAL.—The term 'qualified project' means any facility owned by a qualified borrower which is a—

''(i) qualified desalination facility,

''(ii) qualified recycled water facility,

''(iii) qualified groundwater remediation facility, or

''(iv) facility that is functionally related or subordinate to a facility described in clause (i), (ii), or (iii).

''(B) ENVIRONMENTAL IMPACT.—A project shall not be treated as a qualified project under subparagraph (A) unless such project is designed to comply with regulations issued under subsection (f) relating to the minimization of the environmental impact of the project.

''(8) QUALIFIED RECYCLED WATER FACILITY.—

''(A) IN GENERAL.—The term 'qualified recycled water facility' means any wastewater treatment or distribution facility which—

''(i) exceeds the requirements for the treatment and disposal of wastewater under the Clean Water Act and any other Federal or State water pollution control standards for the discharge and disposal of wastewater to surface water, land, or groundwater (as such requirements and standards are in effect on the date of issuance of the issue), and

''(ii) except as provided in subparagraph (B), is used to reclaim wastewater produced by the general public (including electric utility, industrial, agricultural, commercial, or residential users) to the extent such reclaimed wastewater is used for a beneficial use that the issuer reasonably expects as of the date of issuance of the issue otherwise would have been satisfied with potable water supplies.

''(B) IMPERMISSIBLE USES.—Reclaimed wastewater is not used for a use described in subparagraph (A)(ii) to the extent such reclaimed wastewater is—

''(i) discharged into a waterway or used to meet waterway discharge permit requirements and not used to supplement potable water supplies,

''(ii) used to restore habitat,

''(iii) used to provide once-through cooling for an electric generation facility, or

''(iv) intentionally introduced into the groundwater and not used to supplement potable water supplies.

''(f) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section, including regulations promulgated in consultation with the Administrator of the Environmental Protection Agency to ensure the environmental impact of qualified facilities is minimized.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) of the Internal Revenue Code of 1986 is amended by striking ''or'' at the end of subparagraph (D), by inserting ''or'' at the end of subparagraph (E), and by inserting after subparagraph (E) the following new subparagraph:

''(F) a clean renewable water supply bond,''.

(2) Subparagraph (C) of section 54A(d)(2) of such Code is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding at the end the following new clause:

''(vi) in the case of a clean renewable water supply bond, a purpose specified in section 54G(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 54G. Clean renewable water supply bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2008.

SA 3380. Mr. NELSON of Florida (for himself and Mr. CRAPO) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. ___. INCLUSION OF ALGAE-BASED BIOFUEL IN DEFINITION OF CELLULOSIC BIOFUEL.

(a) CELLULOSIC BIOFUEL PRODUCER CREDIT.—

(1) GENERAL RULE.—Paragraph (4) of section 40(a) of the Internal Revenue Code of 1986 is amended by inserting ''and algae-based'' after ''cellulosic''.

(2) DEFINITIONS.—Paragraph (6) of section 40(b) of such Code is amended—

(A) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading,

(B) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—The cellulosic and algae-based biofuel producer credit of any taxpayer is an amount equal to the applicable amount for each gallon of—

''(i) qualified cellulosic biofuel production, and

''(ii) qualified algae-based biofuel production.'',

(C) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (I), (J), and (K), respectively,

(D) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading of subparagraph (I), as so redesignated,

(E) by inserting ''or algae-based biofuel, whichever is appropriate,'' after ''cellulosic biofuel'' in subparagraph (J), as so redesignated,

(F) by inserting ''and qualified algae-based biofuel production'' after ''qualified cellulosic biofuel production'' in subparagraph (K), as so redesignated, and

(G) by inserting after subparagraph (E) the following new subparagraphs:

''(F) QUALIFIED ALGAE-BASED BIOFUEL PRODUCTION.—For purposes of this section, the term 'qualified algae-based biofuel production' means any algae-based biofuel which is produced by the taxpayer, and which during the taxable year—

''(i) is sold by the taxpayer to another person—

''(I) for use by such other person in the production of a qualified algae-based biofuel mixture in such other person's trade or business (other than casual off-farm production),

''(II) for use by such other person as a fuel in a trade or business, or

''(III) who sells such algae-based biofuel at retail to another person and places such algae-based biofuel in the fuel tank of such other person, or

''(ii) is used or sold by the taxpayer for any purpose described in clause (i).

The qualified algae-based biofuel production of any taxpayer for any taxable year shall not include any alcohol which is purchased by the taxpayer and with respect to which such producer increases the proof of the alcohol by additional distillation.

''(G) QUALIFIED ALGAE-BASED BIOFUEL MIXTURE.—For purposes of this paragraph, the term 'qualified algae-based biofuel mixture' means a mixture of algae-based biofuel and gasoline or of algae-based biofuel and a special fuel which—

''(i) is sold by the person producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the person producing such mixture.

''(H) ALGAE-BASED BIOFUEL.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'algae-based biofuel' means any liquid fuel, including gasoline, diesel, aviation fuel, and ethanol, which—

''(I) is produced from the biomass of algal organisms, and

''(II) meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

''(ii) ALGAL ORGANISM.—The term 'algal organism' means a single- or multi-cellular organism which is primarily aquatic and classified as a non-vascular plant, including microalgae, blue-green algae (cyanobacteria), and macroalgae (seaweeds).

''(iii) EXCLUSION OF LOW-PROOF ALCOHOL.—Such term shall not include any alcohol with a proof of less than 150. The determination of the proof of any alcohol shall be made without regard to any added denaturants.''.

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (D) of section 40(d)(3) of such Code is amended—

(i) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading,

(ii) by inserting ''or (b)(6)(F)'' after ''(b)(6)(C)'' in clause (ii), and

(iii) by inserting ''or algae-based'' after ''such cellulosic''.

(B) Paragraph (6) of section 40(d) of such Code is amended—

(i) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading, and

(ii) by striking the first sentence and inserting ''No cellulosic and algae-based biofuel producer credit shall be determined under subsection (a) with respect to any cellulosic or algae-based biofuel unless such cellulosic or algae-based biofuel is produced in the United States and used as a fuel in the United States.''

(C) Paragraph (3) of section 40(e) of such Code is amended by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading.

(D) Paragraph (1) of section 4101(a) of such Code is amended—

(i) by inserting ''or algae-based'' after ''cellulosic'', and

(ii) by inserting ''and 40(b)(6)(H), respectively'' after ''section 40(b)(6)(E)''.

(b) SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.—Subsection (l) of section 168 of the Internal Revenue Code of 1986 is amended—

(1) by inserting ''AND ALGAE-BASED'' after ''CELLULOSIC'' in the heading,

(2) by inserting ''and any qualified algae-based biofuel plant property'' after ''qualified cellulosic biofuel plant property'' in paragraph (1),

(3) by redesignating paragraphs (4) through (8) as paragraphs (6) through (10), respectively,

(4) by inserting ''or qualified algae-based biofuel plant property'' after ''cellulosic biofuel plant property'' in paragraph (7)(C), as so redesignated,

(5) by striking ''with respect to'' and all that follows in paragraph (9), as so redesignated, and inserting ''with respect to any qualified cellulosic biofuel plant property and any qualified algae-based biofuel plant property which ceases to be such qualified property.'',

(6) by inserting ''or qualified algae-based biofuel plant property'' after ''cellulosic biofuel plant property'' in paragraph (10), as so redesignated, and

(7) by inserting after paragraph (3) the following new paragraphs:

''(4) QUALIFIED ALGAE-BASED BIOFUEL PLANT PROPERTY.—The term 'qualified algae-based biofuel plant property' means property of a character subject to the allowance for depreciation—

''(A) which is used in the United States solely to produce algae-based biofuel,

''(B) the original use of which commences with the taxpayer after the date of the enactment of this paragraph,

''(C) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after the date of the enactment of this paragraph, but only if no written binding contract for the acquisition was in effect on or before such date, and

''(D) which is placed in service by the taxpayer before January 1, 2013.

''(5) ALGAE-BASED BIOFUEL.—

''(A) IN GENERAL.—The term 'algae-based biofuel' means any liquid fuel which is produced from the biomass of algal organisms.

''(B) ALGAL ORGANISM.—The term 'algal organism' means a single- or multi-cellular organism which is primarily aquatic and classified as a non-vascular plant, including microalgae, blue-green algae (cyanobacteria), and macroalgae (seaweeds).''.

(c) EFFECTIVE DATES.—

(1) CELLULOSIC BIOFUEL PRODUCER CREDIT.—The amendments made by subsection (a) shall apply to fuel produced after the date of the enactment of this Act.

(2) SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.—The amendments made by subsection (b) shall apply to property purchased and placed in service after the date of the enactment of this Act.

SA 3381. Mr. LIEBERMAN (for himself, Ms. COLLINS, Mrs. FEINSTEIN, Mr. BYRD, Mr. ENSIGN, and Mr. VOINOVICH) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—DC OPPORTUNITY SCHOLARSHIP PROGRAM

SEC. 801. SHORT TITLE.

This title may be cited as the ''Scholarships for Opportunity and Results Act of 2010'' or the ''SOAR Act''.

SEC. 802. FINDINGS.

Congress finds the following:

(1) Parents are best equipped to make decisions for their children, including the educational setting that will best serve the interests and educational needs of their child.

(2) For many parents in the District of Columbia, public school choice provided under the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, as well as under other public school choice programs, is inadequate. More educational options are needed to ensure all families in the District of Columbia have access to a quality education. In particular, funds are needed to provide low-income parents with enhanced public opportunities and private educational environments, regardless of whether such environments are secular or nonsecular.

(3) Public school records raise persistent concerns regarding health and safety problems in District of Columbia public schools. For example, more than half of the District of Columbia's teenage public school students attend schools that meet the District of Columbia's definition of ''persistently dangerous'' due to the number of violent crimes.

(4) While the per student cost for students in the public schools of the District of Columbia is one of the highest in the United States, test scores for such students continue to be among the lowest in the Nation. The National Assessment of Educational Progress (NAEP), an annual report released by the National Center for Education Statistics, reported in its 2007 study that students in the District of Columbia were being outperformed by every State in the Nation. On the 2007 NAEP, 61 percent of fourth grade students scored ''below basic'' in reading, and 51 percent scored ''below basic'' in mathematics. Among eighth grade students, 52 percent scored ''below basic'' in reading and 56 percent scored ''below basic'' in mathematics. On the 2007 NAEP reading assessment, only 14 percent of the District of Columbia fourth grade students could read proficiently, while only 12 percent of the eighth grade students scored at the proficient or advanced level.

(5) In 2003, Congress passed the DC School Choice Incentive Act of 2003 (Public Law 108–199; 118 Stat. 126) to provide opportunity scholarships to parents of students in the District of Columbia that could be used by students in kindergarten through grade 12 to attend a private educational institution. The opportunity scholarship program under such Act was part of a comprehensive 3-part funding arrangement that also included additional funds for the District of Columbia public schools, and additional funds for public charter schools of the District of Columbia. The intent of the approach was to ensure that progress would continue to be made to improve public schools and public charter schools, and that funding for the opportunity scholarship program would not lead to a reduction in funding for the District of Columbia public and charter schools. Resources would be available for a variety of educational options that would give families in the District of Columbia a range of choices with regard to the education of their children.

(6) The opportunity scholarship program was established in accordance with the U.S. Supreme Court decision, Zelman v. Simmons-Harris, 536 U.S. 639 (2002), which found that a program enacted for the valid secular purpose of providing educational assistance to low-income children in a demonstrably failing public school system is constitutional if it is neutral with respect to religion and provides assistance to a broad class of citizens who direct government aid to religious and secular schools solely as a result of their genuine and independent private choices.

(7) Since the opportunity scholarship program's inception, it has consistently been oversubscribed. Parents express strong support for the opportunity scholarship program. A rigorous analysis of the program by the Institute of Education Sciences (IES) shows statistically significant improvements in parental satisfaction and in reading scores that are even more dramatic when only those students consistently using the scholarships are considered.

(8) The DC opportunity scholarship program is a program that offers families in need, in the District of Columbia, important alternatives while public schools are improved. It is the sense of Congress that this program should continue as 1 of a 3-part comprehensive funding strategy for the District of Columbia school system that provides new and equal funding for public schools, public charter schools, and opportunity scholarships for students to attend private schools.

SEC. 803. PURPOSE.

The purpose of this title is to provide low-income parents residing in the District of Columbia, particularly parents of students who attend elementary schools or secondary schools identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316), with expanded opportunities for enrolling their children in other schools in the District of Columbia, at least until the public schools in the District of Columbia have adequately addressed shortfalls in health, safety, and security and the students in the District of Columbia public schools are testing in mathematics and reading at or above the national average.

SEC. 804. GENERAL AUTHORITY.

(a) AUTHORITY.—From funds appropriated to carry out this title, the Secretary shall award grants on a competitive basis to eligible entities with approved applications under section 805 to carry out activities to provide eligible students with expanded school choice opportunities. The Secretary may award a single grant or multiple grants, depending on the quality of applications submitted and the priorities of this title.

(b) DURATION OF GRANTS.—The Secretary shall make grants under this section for a period of not more than 5 years.

(c) MEMORANDUM OF UNDERSTANDING.—The Secretary and the Mayor of the District of Columbia shall enter into a memorandum of understanding regarding the design of, selection of eligible entities to receive grants under, and implementation of, a program assisted under this title.

(d) SPECIAL RULE.—Notwithstanding any other provision of law, funding appropriated for the opportunity scholarship program under the Omnibus Appropriations Act, 2009 (Public Law 111–8), the District of Columbia Appropriations Act, 2010 (Public Law 111–117), or any other Act, may be used to provide opportunity scholarships under section 807 to new applicants.

SEC. 805. APPLICATIONS.

(a) IN GENERAL.—In order to receive a grant under this title, an eligible entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) CONTENTS.—The Secretary may not approve the request of an eligible entity for a grant under this title unless the entity's application includes—

(1) a detailed description of—

(A) how the entity will address the priorities described in section 806;

(B) how the entity will ensure that if more eligible students seek admission in the program than the program can accommodate, eligible students are selected for admission through a random selection process which gives weight to the priorities described in section 806;

(C) how the entity will ensure that if more participating eligible students seek admission to a participating school than the school can accommodate, participating eligible students are selected for admission through a random selection process;

(D) how the entity will notify parents of eligible students of the expanded choice opportunities and how the entity will ensure that parents receive sufficient information about their options to allow the parents to make informed decisions;

(E) the activities that the entity will carry out to provide parents of eligible students with expanded choice opportunities through the awarding of scholarships under section 807(a);

(F) how the entity will determine the amount that will be provided to parents for the tuition, fees, and transportation expenses, if any;

(G) how the entity will—

(i) seek out private elementary schools and secondary schools in the District of Columbia to participate in the program; and

(ii) ensure that participating schools will meet the reporting and other requirements of this title;

(H) how the entity will ensure that participating schools are financially responsible and will use the funds received under this title effectively;

(I) how the entity will address the renewal of scholarships to participating eligible students, including continued eligibility; and

(J) how the entity will ensure that a majority of its voting board members or governing organization are residents of the District of Columbia;

(2) an assurance that the entity will comply with all requests regarding any evaluation carried out under section 809; and

(3) an assurance that site inspections of participating schools will be conducted at appropriate intervals.

SEC. 806. PRIORITIES.

In awarding grants under this title, the Secretary shall give priority to applications from eligible entities that will most effectively—

(1) give priority to eligible students who, in the school year preceding the school year for which the eligible student is seeking a scholarship, attended an elementary school or secondary school identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316);

(2) give priority to students whose household includes a sibling or other child who is already participating in the program of the eligible entity under this title, regardless of whether such students have, in the past, been assigned as members of a control study group for the purposes of an evaluation under section 809;

(3) target resources to students and families that lack the financial resources to take advantage of available educational options; and

(4) provide students and families with the widest range of educational options.

SEC. 807. USE OF FUNDS.

(a) SCHOLARSHIPS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), an eligible entity receiving a grant under this title shall use the grant funds to provide eligible students with scholarships to pay the tuition, fees, and transportation expenses, if any, to enable the eligible students to attend the District of Columbia private elementary school or secondary school of their choice beginning in school year 2010–2011. Each such eligible entity shall ensure that the amount of any tuition or fees charged by a school participating in such eligible entity's program under this title to an eligible student participating in the program does not exceed the amount of tuition or fees that the school charges to students who do not participate in the program.

(2) PAYMENTS TO PARENTS.—An eligible entity receiving a grant under this title shall make scholarship payments under the program under this title to the parent of the eligible student participating in the program, in a manner which ensures that such payments will be used for the payment of tuition, fees, and transportation expenses (if any), in accordance with this title.

(3) AMOUNT OF ASSISTANCE.—

(A) VARYING AMOUNTS PERMITTED.—Subject to the other requirements of this section, an eligible entity receiving a grant under this title may award scholarships in larger amounts to those eligible students with the greatest need.

(B) ANNUAL LIMIT ON AMOUNT.—

(i) LIMIT FOR SCHOOL YEAR 2010–2011.—The amount of assistance provided to any eligible student by an eligible entity under a program under this title for school year 2010–2011 may not exceed—

(I) $9,000 for attendance in kindergarten through grade 8; and

(II) $11,000 for attendance in grades 9 through 12.

(ii) CUMULATIVE INFLATION ADJUSTMENT.—The limits described in clause (i) shall apply for each school year following school year 2010–2011, except that the Secretary shall adjust the maximum amounts of assistance (as described in clause (i) and adjusted under this clause for the preceding year) for inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(4) PARTICIPATING SCHOOL REQUIREMENTS.—None of the funds provided under this title for opportunity scholarships may be used by an eligible student to enroll in a participating private school unless the participating school—

(A) has and maintains a valid certificate of occupancy issued by the District of Columbia;

(B) makes readily available to all prospective students information on its school accreditation;

(C) in the case of a school that has been operating for 5 years or less, submits to the eligible entity administering the program proof of adequate financial resources reflecting the financial sustainability of the school and the school's ability to be in operation through the school year;

(D) has financial systems, controls, policies, and procedures to ensure that Federal funds are used according to this title;

(E) ensures that each teacher of core subject matter in the school has a baccalaureate degree or equivalent degree; and

(F) is in compliance with the accreditation and other standards prescribed under the District of Colombia compulsory school attendance laws that apply to educational institutions not affiliated with the District of Columbia Public Schools.

(b) ADMINISTRATIVE EXPENSES.—An eligible entity receiving a grant under this title may use not more than 3 percent of the amount provided under the grant each year for the administrative expenses of carrying out its program under this title during the year, including—

(1) determining the eligibility of students to participate;

(2) selecting eligible students to receive scholarships;

(3) determining the amount of scholarships and issuing the scholarships to eligible students; and

(4) compiling and maintaining financial and programmatic records.

(c) PARENTAL ASSISTANCE.—An eligible entity receiving a grant under this title may use not more than 2 percent of the amount provided under the grant each year for the expenses of educating parents about the program under this title and assisting parents through the application process under this title during the year, including—

(1) providing information about the program and the participating schools to parents of eligible students;

(2) providing funds to assist parents of students in meeting expenses that might otherwise preclude the participation of eligible students in the program; and

(3) streamlining the application process for parents.

(d) STUDENT ACADEMIC ASSISTANCE.—An eligible entity receiving a grant under this title may use not more than 1 percent of the amount provided under the grant each year for expenses to provide tutoring services to participating eligible students that need additional academic assistance in the students' new schools. If there are insufficient funds to pay for these costs for all such students, the eligible entity shall give priority to students who previously attended an elementary school or secondary school that was identified for improvement, corrective action, or restructuring under section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316) as of the time the student attended the school.

SEC. 808. NONDISCRIMINATION.

(a) IN GENERAL.—An eligible entity or a school participating in any program under this title shall not discriminate against program participants or applicants on the basis of race, color, national origin, religion, or sex.

(b) APPLICABILITY AND SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the prohibition of sex discrimination in subsection (a) shall not apply to a participating school that is operated by, supervised by, controlled by, or connected to a religious organization to the extent that the application of subsection (a) is inconsistent with the religious tenets or beliefs of the school.

(2) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding subsection (a) or any other provision of law, a parent may choose and a school may offer a single sex school, class, or activity.

(3) APPLICABILITY.—For purposes of this title, the provisions of section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) shall apply to this title as if section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) were part of this title.

(c) CHILDREN WITH DISABILITIES.—Nothing in this title may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(d) RELIGIOUSLY AFFILIATED SCHOOLS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a school participating in any program under this title that is operated by, supervised by, controlled by, or connected to, a religious organization may exercise its right in matters of employment consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1 et seq.), including the exemptions in such title.

(2) MAINTENANCE OF PURPOSE.—Notwithstanding any other provision of law, funds made available under this title to eligible students, which are used at a participating school as a result of their parents' choice, shall not, consistent with the first amendment of the United States Constitution, necessitate any change in the participating school's teaching mission, require any participating school to remove religious art, icons, scriptures, or other symbols, or preclude any participating school from retaining religious terms in its name, selecting its board members on a religious basis, or including religious references in its mission statements and other chartering or governing documents.

(e) RULE OF CONSTRUCTION.—A scholarship (or any other form of support provided to parents of eligible students) under this title shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the eligible student. The amount of any scholarship (or other form of support provided to parents of an eligible student) under this title shall not be treated as income of the parents for purposes of Federal tax laws or for determining eligibility for any other Federal program.

SEC. 809. EVALUATIONS.

(a) IN GENERAL.—

(1) DUTIES OF THE SECRETARY AND THE MAYOR.—The Secretary and the Mayor of the District of Columbia shall—

(A) jointly enter into an agreement with the Institute of Education Sciences of the Department of Education to evaluate annually the performance of students who received scholarships under the 5-year program under this title, and

(B) make the evaluations public in accordance with subsection (c).

(2) DUTIES OF THE SECRETARY.—The Secretary, through a grant, contract, or cooperative agreement, shall—

(A) ensure that the evaluation is conducted using the strongest possible research design for determining the effectiveness of the program funded under this title that addresses the issues described in paragraph (4); and

(B) disseminate information on the impact of the program in increasing the academic growth and achievement of participating students, and on the impact of the program on students and schools in the District of Columbia.

(3) DUTIES OF THE INSTITUTE OF EDUCATION SCIENCES.—The Institute of Education Sciences shall—

(A) use a grade appropriate measurement each school year to assess participating eligible students;

(B) measure the academic achievement of all participating eligible students; and

(C) work with the eligible entities to ensure that the parents of each student who applies for a scholarship under this title (regardless of whether the student receives the scholarship) and the parents of each student participating in the scholarship program under this title, agree that the student will participate in the measurements given annually by the Institute of Educational Sciences for the period for which the student applied for or received the scholarship, respectively, except that nothing in this subparagraph shall affect a student's priority for an opportunity scholarship as provided under section 806(2).

(4) ISSUES TO BE EVALUATED.—The issues to be evaluated include the following:

(A) A comparison of the academic growth and achievement of participating eligible

students in the measurements described in this section to the academic growth and achievement of—

(i) students in the same grades in the District of Columbia public schools; and

(ii) the eligible students in the same grades in the District of Columbia public schools who sought to participate in the scholarship program but were not selected.

(B) The success of the program in expanding choice options for parents.

(C) The reasons parents choose for their children to participate in the program.

(D) A comparison of the retention rates, dropout rates, and (if appropriate) graduation and college admission rates, of students who participate in the program funded under this title with the retention rates, dropout rates, and (if appropriate) graduation and college admission rates of students of similar backgrounds who do not participate in such program.

(E) The impact of the program on students, and public elementary schools and secondary schools, in the District of Columbia.

(F) A comparison of the safety of the schools attended by students who participate in the program funded under this title and the schools attended by students who do not participate in the program, based on the perceptions of the students and parents and on objective measures of safety.

(G) Such other issues as the Secretary considers appropriate for inclusion in the evaluation.

(H) An analysis of the issues described in subparagraphs (A) through (G) with respect to the subgroup of eligible students participating in the program funded under this title who consistently use the opportunity scholarships to attend a participating school.

(I) An assessment of the academic value added by participating schools on a school-by-school basis based on test results from participating eligible students using the same test as is administered to students attending District of Columbia public schools, except that if the evaluator is able certify that other means are available to compare results from the test administrated in District of Columbia public schools to the nationally normed test used at the participating school, such nationally normed test may be used. Such assessment shall be based on the strongest possible research design and shall, to the extent possible, test students under conditions that yield scientifically valid results. Such assessment shall also provide, to the extent possible, a scientifically valid analysis of how such schools provide academic value added as compared to public schools in the District of Columbia. The results of the assessment shall be supplied to parents and included in all reports to Congress so as to ensure that Federal dollars used for the purposes of the program are positively impacting the achievement levels of student participants.

(5) PROHIBITION.—Personally identifiable information regarding the results of the measurements used for the evaluations may not be disclosed, except to the parents of the student to whom the information relates.

(b) REPORTS.—The Secretary shall submit to the Committees on Appropriations, Education and Labor, and Oversight and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Homeland Security and Governmental Affairs of the Senate—

(1) annual interim reports, not later than December 1 of each year for which a grant is made under this title, on the progress and preliminary results of the evaluation of the program funded under this title; and

(2) a final report, not later than 1 year after the final year for which a grant is made under this title, on the results of the evaluation of the program funded under this title.

(c) PUBLIC AVAILABILITY.—All reports and underlying data gathered pursuant to this section shall be made available to the public upon request, in a timely manner following submission of the applicable report under subsection (b), except that personally identifiable information shall not be disclosed or made available to the public.

(d) LIMIT ON AMOUNT EXPENDED.—The amount expended by the Secretary to carry out this section for any fiscal year may not exceed 5 percent of the total amount appropriated to carry out this title for the fiscal year.

SEC. 810. REPORTING REQUIREMENTS.

(a) ACTIVITIES REPORTS.—Each eligible entity receiving funds under this title during a year shall submit a report to the Secretary not later than July 30 of the following year regarding the activities carried out with the funds during the preceding year.

(b) ACHIEVEMENT REPORTS.—

(1) IN GENERAL.—In addition to the reports required under subsection (a), each grantee receiving funds under this title shall, not later than September 1 of the year during which the second academic year of the grantee's program is completed and each of the next 2 years thereafter, submit to the Secretary a report, including any pertinent data collected in the preceding 2 academic years, concerning—

(A) the academic growth and achievement of students participating in the program;

(B) the graduation and college admission rates of students who participate in the program, where appropriate; and

(C) parental satisfaction with the program.

(2) PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.—No report under this subsection may contain any personally identifiable information.

(c) REPORTS TO PARENT.—

(1) IN GENERAL.—Each grantee receiving funds under this title shall ensure that each school participating in the grantee's program under this title during a year reports at least once during the year to the parents of each of the school's students who are participating in the program on—

(A) the student's academic achievement, as measured by a comparison with the aggregate academic achievement of other participating students at the student's school in the same grade or level, as appropriate, and the aggregate academic achievement of the student's peers at the student's school in the same grade or level, as appropriate; and

(B) the safety of the school, including the incidence of school violence, student suspensions, and student expulsions.

(2) PROHIBITING DISCLOSURE OF PERSONAL INFORMATION.—No report under this subsection may contain any personally identifiable information, except as to the student who is the subject of the report to that student's parent.

(d) REPORT TO CONGRESS.—The Secretary shall submit to the Committees on Appropriations, Education and the Workforce, and Oversight and Government Reform of the House of Representatives and the Committees on Appropriations, Health, Education, Labor, and Pensions, and Homeland Security and Governmental Affairs of the Senate an annual report on the findings of the reports submitted under subsections (a) and (b).

SEC. 811. OTHER REQUIREMENTS FOR PARTICIPATING SCHOOLS.

(a) TESTING.—Students participating in a program under this title shall take a nationally norm-referenced standardized test in reading and mathematics. Results of such test shall be reported to the student's parent and the Institute of Education Sciences. To preserve confidentiality, at no time should results for individual students or schools be released to the public.

(b) REQUESTS FOR DATA AND INFORMATION.—Each school participating in a program funded under this title shall comply with all requests for data and information regarding evaluations conducted under section 809(a).

(c) RULES OF CONDUCT AND OTHER SCHOOL POLICIES.—A participating school, including a participating school described in section 808(d), may require eligible students to abide by any rules of conduct and other requirements applicable to all other students at the school.

SEC. 812. DEFINITIONS.

In this title:

(1) ELEMENTARY SCHOOL.—The term ''elementary school'' means an institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under District of Columbia law.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means any of the following:

(A) A nonprofit organization.

(B) A consortium of nonprofit organizations.

(3) ELIGIBLE STUDENT.—The term ''eligible student'' means a student who is a resident of the District of Columbia and comes from a household—

(A) receiving assistance under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.); or

(B) whose income does not exceed—

(i) 185 percent of the poverty line;

(ii) in the case of a student in a household that had a student participating in a program under this title for the preceding school year, 250 percent of the poverty line; or

(iii) in the case of a student in a household that had a student participating in a program under the DC School Choice Incentive Act of 2003 (Public Law 108–199; 118 Stat. 126) on or before the date of enactment of this title, 300 percent of the poverty line.

(4) PARENT.—The term ''parent'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(5) POVERTY LINE.—The term ''poverty line'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(6) SECONDARY SCHOOL.—The term ''secondary school'' means an institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under District of Columbia law, except that the term does not include any education beyond grade 12.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 813. TRANSITION PROVISIONS.

(a) REPEAL; SUNSET OF OTHER PROVISIONS.—

(1) REPEAL.—The DC School Choice Incentive Act of 2003 (title III of division C of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 126)) is repealed.

(2) SUNSET OF OTHER PROVISIONS.—Notwithstanding any other provision of law, all of the provisos under the heading ''FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT'' under the District of Columbia Appropriations Act, 2010 (Public Law 111–117), shall cease to have effect on and after the date of enactment of this Act.

(b) REAUTHORIZATION OF PROGRAM.—This title shall be deemed to be the reauthorization of the opportunity scholarship program under the DC School Choice Incentive Act of 2003.

(c) ORDERLY TRANSITION.—Subject to subsections (d) and (e), the Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of this title from any authority under the provisions of the DC School Choice Incentive Act of 2003 (Public Law 108–199; 118 Stat. 126), as the DC School Choice Incentive Act of 2003 was in effect on the day before the date of enactment of this title.

(d) RULE OF CONSTRUCTION.—Nothing in this title or a repeal made by this title shall be construed to alter or affect the memorandum of understanding entered into with the District of Columbia, or any grant or contract awarded, under the DC School Choice Incentive Act of 2003 (Public Law 108–199; 118 Stat. 126), as the DC School Choice Incentive Act of 2003 was in effect on the day before the date of enactment of this title.

(e) MULTI-YEAR AWARDS.—The recipient of a multi-year grant or contract award under the DC School Choice Incentive Act of 2003 (Public Law 108–199; 118 Stat. 126), as the DC School Choice Incentive Act of 2003 was in effect on the day before the date of enactment of this title, shall continue to receive funds in accordance with the terms and conditions of such award.

SEC. 814. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to carry out this title, $20,000,000 for fiscal year 2010 and such sums as may be necessary for each of the 4 succeeding fiscal years;

(2) for the District of Columbia public schools, in addition to any other amounts available for District of Columbia public schools, $20,000,000 for fiscal year 2010 and such sums as may be necessary for each of the 4 succeeding fiscal years; and

(3) for District of Columbia public charter schools, in addition to any other amounts available for District of Columbia public charter schools, $20,000,000 for fiscal year 2010 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SA 3382. Ms. STABENOW (for herself, Mr. HATCH, Mr. SCHUMER, Mr. CRAPO, Mr. RISCH, Ms. SNOWE, Mr. BROWN of Ohio, and Mr. ENZI) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the end of title VI, add the following:

SEC. 602. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT CREDITS DETERMINED BY DOMESTIC INVESTMENT.

(a) IN GENERAL.—Section 53 is amended by adding at the end the following new subsection:

''(g) ELECTION FOR CORPORATIONS WITH UNUSED CREDITS.—

''(1) IN GENERAL.—If a corporation elects to have this subsection apply, then notwithstanding any other provision of law, the limitation imposed by subsection (c) for any such taxable year shall be increased by the AMT credit adjustment amount.

''(2) AMT CREDIT ADJUSTMENT AMOUNT.—For purposes of paragraph (1), the term 'AMT credit adjustment amount' means with respect to any taxable year beginning in 2010, the lesser of—

''(A) 50 percent of a corporation's minimum tax credit determined under subsection (b), or

''(B) 10 percent of new domestic investments made during such taxable year.

''(3) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term 'new domestic investments' means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

''(A) the original use of which commences with the taxpayer during the taxable year, and

''(B) which is placed in service in the United States by the taxpayer during such taxable year.

''(4) CREDIT REFUNDABLE.—For purposes of subsections (b) and (c) of section 6401, the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C of such part (and not to any other subpart).

''(5) ELECTION.—

''(A) IN GENERAL.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once effective, may be revoked only with the consent of the Secretary.

''(B) INTERIM ELECTIONS.—Until such time as the Secretary prescribes a manner for making an election under this subsection, a taxpayer is treated as having made a valid election by providing written notification to the Secretary and the Commissioner of Internal Revenue of such election.

''(6) TREATMENT OF CERTAIN PARTNERSHIP INVESTMENTS.—For purposes of this subsection, any corporation's allocable share of any new domestic investments by a partnership more than 90 percent of the capital and profits interest in which is owned by such corporation (directly or indirectly) at all times during the taxable year in which an election under this subsection is in effect shall be considered new domestic investments of such corporation for such taxable year.

''(7) NO DOUBLE BENEFIT.—Notwithstanding clause (iii)(II) of section 172(b)(1)(H), any taxpayer which has previously made an election under such section shall be deemed to have revoked such election by the making of its first election under this subsection.

''(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this subsection, including to prevent fraud and abuse under this subsection.

''(9) TERMINATION.—This subsection shall not apply to any taxable year that begins after December 31, 2010.''.

(b) QUICK REFUND OF REFUNDABLE CREDIT.—Section 6425 is amended by adding at the end the following new subsection:

''(e) ALLOWANCE OF AMT CREDIT ADJUSTMENT AMOUNT.—The amount of an adjustment under this section as determined under subsection (c)(2) for any taxable year may be increased to the extent of the corporation's AMT credit adjustment amount determined under section 53(g) for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 603. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

''(1) IN GENERAL.—Solely for purposes of subsection (a) and except as provided in paragraph (2), a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any individual, including any individual who is an active member of the uniformed services, if substantially all rental income is derived from renting the principal residence (within the meaning of section 121) of such individual on a temporary basis,

''(B) any individual who receives rental income of not more than the minimal amount, as determined under regulations prescribed by the Secretary, and

''(C) any other individual for whom the requirements of this section would cause hardship, as determined under regulations prescribed by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

SA 3383. Mr. WICKER (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 38, after line 24, add the following:

SEC. 186. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Paragraphs (2)(D) and (7)(C) of section 1400N(a) are each amended by striking''January 1, 2011'' and inserting ''January 1, 2012''.

(b) CONFORMING AMENDMENTS.—Sections 702(d)(1) and 704(a) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110-343; 122 Stat. 3913, 3919) are each amended by striking''January 1, 2011'' each place it appears and inserting ''January 1, 2012''.

SA 3384. Ms. KLOBUCHAR submitted an amendment intended to be proposed by her to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title VI, insert the following:

SEC. 6___. ENERGY EFFICIENCY LOAN GUARANTEES.

Section 1705(a) of the Energy Policy Act of 2005 (42 U.S.C. 16516(a)) is amended by adding at the end the following:

''(4) Energy efficiency projects, including projects to retrofit residential, commercial, and industrial buildings, facilities, and equipment.''.

SA 3385. Ms. KLOBUCHAR submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. ___. EXTENSION OF TIME TO MEET CRITERIA FOR CERTIFICATION FOR QUALIFYING ADVANCED COAL PROJECT CREDIT.

(a) IN GENERAL.—Subparagraph (D) of section 48A(d)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following: ''The Secretary may extend the 2-year period in the preceding sentence if the Secretary determines that a failure to meet such criteria is due to circumstances beyond the control of the applicant, except that the Secretary may not extend such time period later than December 31, 2014.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to applications submitted after the date which is 3 years before the date of the enactment of this Act.

SA 3386. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION ____—TRADE ENFORCEMENT PRIORITIES

SEC. ___01. SHORT TITLE.

This division may be cited as the ''Trade Enforcement Priorities Act''.

SEC. ___02. IDENTIFICATION OF TRADE ENFORCEMENT PRIORITIES.

(a) IN GENERAL.—Section 310 of the Trade Act of 1974 (19 U.S.C. 2420) is amended to read as follows:

''SEC. 310. IDENTIFICATION OF TRADE ENFORCEMENT PRIORITIES.

''(a) IDENTIFICATION AND ANNUAL REPORT.—Not later than 75 days after the date that the National Trade Estimate under section 181(b) is required to be submitted each calendar year, the United States Trade Representative shall—

''(1) identify the trade enforcement priorities of the United States;

''(2) identify trade enforcement actions that the United States has taken during the previous year and provide an assessment of the impact those enforcement actions have had in addressing foreign trade barriers;

''(3) identify the priority foreign country trade practices on which the Trade Representative will focus the trade enforcement efforts of the United States during the upcoming year; and

''(4) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priorities, actions, assessments, and practices identified in paragraphs (1), (2), and (3).

''(b) FACTORS TO CONSIDER.—In identifying priority foreign country trade practices under subsection (a)(3), the Trade Representative shall—

''(1) focus on those practices the elimination of which is likely to have the most significant potential to increase United States economic growth; and

''(2) concentrate on United States trading partners—

''(A) that represent the largest trade deficit in dollar value with the United States, excluding petroleum and petroleum products;

''(B) whose practices have the most negative impact on maintaining and creating United States jobs, wages, and productive capacity; and

''(C) whose practices limit market access for United States goods and services; and

''(3) take into account all relevant factors, including—

''(A) the major barriers and trade distorting practices described in the most recent National Trade Estimate required under section 181(b);

''(B) the findings and practices described in the most recent report required under—

''(i) section 182;

''(ii) section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106);

''(iii) section 3005 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 5305); and

''(iv) section 421 of the U.S.-China Relations Act of 2000 (22 U.S.C. 6951);

''(C) the findings and practices described in any other report addressing international trade and investment barriers prepared by the Trade Representative, the Department of Commerce, the Department of Labor, the Department of Agriculture, and the Department of State, or any other agency or congressional commission during the 12 months preceding the date on which the report described in subsection (a)(4) is required to be submitted;

''(D) a foreign country's compliance with its obligations under any trade agreements to which both the foreign country and the United States are parties;

''(E) a foreign country's compliance with its obligations under internationally recognized sanitary and phytosanitary standards;

''(F) the international competitive position and export potential of United States products and services; and

''(G) the enforcement of customs laws relating to anticircumvention and transshipment.

''(c) CONSULTATION.—

''(1) IN GENERAL.—Not later than 90 days after the date that the National Trade Estimate under section 181(b) is required to be submitted, the Trade Representative shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the priorities, actions, assessments, and practices required to be identified in the report under subsection (a).

''(2) VOTE OF COMMITTEE.—If, as a result of the consultations described in paragraph (1), either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives requests identification of a priority foreign country trade practice by majority vote of the Committee, the Trade Representative shall include such identification in the report required under subsection (a).

''(3) DETERMINATION NOT TO INCLUDE PRIORITY FOREIGN COUNTRY TRADE PRACTICES.—The Trade Representative may determine not to include the priority foreign country trade practice requested under paragraph (2) in the report required under subsection (a) only if the Trade Representative finds that—

''(A) such practice is already being addressed under provisions of United States trade law, under the Uruguay Round Agreements (as defined in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7))), under a bilateral or regional trade agreement, or as part of trade negotiations with that foreign country or other countries, and progress is being made toward the elimination of such practice; or

''(B) identification of such practice as a priority foreign country trade practice would be contrary to the interests of United States trade policy.

''(4) REASONS FOR DETERMINATION.—In the case of a determination made pursuant to paragraph (3), the Trade Representative shall set forth in detail the reasons for that determination in the report required under subsection (a).

''(5) REPORT TO BE PUBLICLY AVAILABLE.—The Trade Representative shall publish the report required under subsection (a) in the Federal Register.

''(d) INVESTIGATION AND RESOLUTION.—

''(1) IN GENERAL.—Not later than 120 days after the report required under subsection (a) is submitted, the Trade Representative shall engage in negotiations with the country concerned in accordance with paragraph (2) or (3), as the case may be, to resolve the practices identified in the report.

''(2) ACTIONS WITH RESPECT TO PRACTICES OF MEMBERS OF THE WORLD TRADE ORGANIZATION OR COUNTRIES WITH WHICH THE UNITED STATES HAS A TRADE AGREEMENT IN EFFECT.—In the case of any priority foreign country trade practice identified under subsection (a) of a country that is a member of the World Trade Organization or a country with which the United States has a bilateral or regional trade agreement in effect, the Trade Representative shall, not later than 120 days after the date that the report described in subsection (a) is submitted—

''(A)(i) initiate dispute settlement consultations in the World Trade Organization; or

''(ii) initiate dispute settlement consultations under the applicable provisions of the bilateral or regional trade agreement;

''(B) seek to negotiate an agreement that provides for the elimination of the priority foreign country trade practice or, if elimination of the practice is not feasible, an agreement that provides for compensatory trade benefits; or

''(C) take any other action necessary to facilitate the elimination of the priority foreign country trade practice.

''(3) ACTIONS WITH RESPECT TO PRACTICES OF OTHER COUNTRIES.—In the case of any priority foreign country trade practice identified under subsection (a) of a country that is not described in paragraph (2), the Trade Representative shall, not later than 120 days after the report described in subsection (a) is submitted—

''(A) initiate an investigation under section 302(b)(1);

''(B) seek to negotiate an agreement that provides for the elimination of the priority foreign country trade practice or, if elimination of the practice is not feasible, an agreement that provides for compensatory trade benefits; or

''(C) take any other action necessary to eliminate the priority foreign country trade practice.

''(e) ADDITIONAL REPORTING.—

''(1) REPORT BY TRADE REPRESENTATIVE.—Not later than 180 days after the date of the enactment of this section, and every 180 days thereafter, the Trade Representative shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the progress being made to realize the trade enforcement priorities identified in subsection (a)(1) and the steps being taken to address the priority foreign country trade practices identified in subsection (a)(3).

''(2) REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.—Not later than 2 years after the date of the enactment of this section, and every 2 years thereafter, the Comptroller General of the United States shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report assessing the actions taken by the Trade Representative to realize the trade enforcement priorities identified in subsection (a)(1) and the steps being taken to address the priority foreign country trade practices identified in subsection (a)(3).''.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 310, and inserting the following new item:

''Sec. 310. Identification of trade enforcement priorities.''.

SA 3387. Mr. DODD submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, line 18, before the comma insert ''and section 8 of the Temporary Extension Act of 2010''.

On page 73, line 21, after the second period insert the following: ''The amendment made

by this section shall be considered to have taken effect on February 28, 2010.''.

SA 3388. Mr. BURRIS submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ENHANCED OVERSIGHT OF STATE AND LOCAL ECONOMIC RECOVERY ACT.

(a) SHORT TITLE.—This section may be cited as the ''Enhanced Oversight of State and Local Economic Recovery Act''.

(b) REQUIREMENTS FOR FUNDING FOR STATE AND LOCAL OVERSIGHT UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—

(1) FEDERAL AGENCY REQUIREMENT.—Section 1552 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 297) is amended—

(A) by inserting ''(a) FEDERAL AGENCY REQUIREMENT.—'' before ''Federal agencies receiving'';

(B) by striking ''may,'' and all that follows through ''reasonably'' and inserting ''shall, subject to guidance from the Director of the Office of Management and Budget,''; and

(C) by striking ''data collection requirements'' and inserting ''data collection requirements, auditing, contract and grant planning and management, and investigations of waste, fraud, and abuse''.

(2) STATE AND LOCAL GOVERNMENT AUTHORITY.—Section 1552 of that Act is further amended by adding at the end the following:

''(b) STATE AND LOCAL GOVERNMENT AUTHORITY.—Notwithstanding any other provision of law, State and local governments receiving funds under this Act may set aside an amount up to 0.5 percent of such funds, in addition to any funds already allocated to administrative expenditures, to conduct planning and oversight to prevent and detect waste, fraud, and abuse.''.

(3) TECHNICAL AND CONFORMING AMENDMENT.—The heading for section 1552 of that Act is amended to read as follows:

''SEC. 1552. FUNDING FOR STATE AND LOCAL GOVERNMENT OVERSIGHT.''.

(c) AUTHORIZATION FOR ACQUISITION BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.—Section 502 of title 40, United States Code, is amended by adding at the end the following:

''(e) USE OF SUPPLY SCHEDULES FOR ECONOMIC RECOVERY.—

''(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for goods or services that are funded by the American Recovery and Reinvestment Act of 2009 (Public Law 111–5).

''(2) VOLUNTARY USE.—In the case of the use by a State or local government of a Federal supply schedule under paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

''(3) PROVISIONS TO ENSURE PROPER USAGE BY NON-FEDERAL USERS.—The Administrator shall, for authorized non-Federal users of Federal Supply Schedules—

''(A) review the existing ordering guidance and, as necessary, prescribe additional guidance to ensure proper usage and to maximize task and delivery order competition;

''(B) make available the online electronic Request for Quote (RFQ)/Request for Proposal (RFP) system; and

''(C) make available, free of charge, training related to proper Schedule usage, including online training courses.

''(4) DEFINITIONS.—The definitions in subsection (c)(3) shall apply for purposes of this subsection.''.

(d) DEFINITION OF JOBS CREATED AND JOBS RETAINED.—Section 1512(g) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 288) is amended by adding at the end ''The Director of the Office of Management and Budget shall issue guidance to ensure accurate and consistent reporting of 'jobs created' and 'jobs retained' as those terms are used in subsection (c)(3)(D).''.

(e) FEDERAL AWARDS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Section 2 of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note; Public Law 109–282) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by inserting after paragraph (1) the following:

''(2) ADDITIONAL WEBSITE CONTENT.—Not later than 30 days after the date of enactment of the Enhanced Oversight of State and Local Economic Recovery Act, the Office of Management and Budget shall ensure that the website under this subsection—

''(A) clearly differentiates between projects funded under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and other Federal awards; and

''(B) provides users with the ability to perform searches for information in the website relating only to Federal awards funded by the American Recovery and Reinvestment Act of 2009 (Public Law 111–5).''; and

(2) by adding after subsection (g) the following:

''(h) WEBLINK.—The website Recovery.gov established under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) shall contain a prominently displayed weblink on its front page to the website under this section.''.

SA 3389. Mr. BURR proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. ___. STATE AND LOCAL SALES TAX RELIEF FOR CONSUMERS.

(a) IN GENERAL.—The Secretary shall reimburse each State for 75 percent of the amount of State and local sales tax payable and not collected during the sales tax holiday period.

(b) DETERMINATION AND TIMING OF REIMBURSEMENT.—

(1) PREDETERMINED AMOUNT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall pay to each State an amount equal to the sum of—

(A)(i) 75 percent of the amount of State and local sales tax payable and collected in such State during the same period in 2009 as the sales tax holiday period, times

(ii) an acceleration factor equal to 1.73, plus

(B) an amount equal to 1 percent of the amount determined under subparagraph (A) for State administrative costs.

(2) RECONCILIATION AMOUNT.—Not later than July 1, 2010, the Secretary shall pay to each electing State under subsection (c)(2) an amount equal to the excess (if any) of—

(A) 75 percent of the amount of State and local sales tax payable and not collected in such State during the sales tax holiday period, over

(B) the amount determined under paragraph (1)(A) and paid to such State.

(c) REQUIREMENT FOR REIMBURSEMENT.—The Secretary may not pay a reimbursement under this section unless—

(1) the chief executive officer of the State informs the Secretary, not later than the first day of the sales tax holiday period of the intention of the State to qualify for such reimbursement by not collecting sales tax payable during the sales tax holiday period,

(2) in the case of a State which elects to receive the reimbursement of a reconciliation amount under subsection (b)(2)—

(A) the chief executive officer of the State informs the Secretary and the Director of Management and Budget and the retail sellers of tangible property in such State, not later than the first day of the sales tax holiday period of the intention of the State to make such an election,

(B) the chief executive officer of the State informs the retail sellers of tangible property in such State, not later than the first day of the sales tax holiday period of the intention of the State to make such an election and the additional information (if any) that will be required as an addendum to the standard reports required of such retail sellers with respect to the reporting periods including the sales tax holiday period,

(C) the chief executive officer reports to the Secretary and the Director of Management and Budget, not later than June 1, 2010, the amount determined under subsection (b)(2) in a manner specified by the Secretary,

(D) if amount determined under subsection (b)(1)(A) and paid to such State exceeds the amount determined under subsection (b)(2)(A), the chief executive officer agrees to remit to the Secretary such excess not later than July 1, 2010, and

(E) the chief executive officer of the State certifies that such State—

(i) in the case of any retail seller unable to identify and report sales which would otherwise be taxable during the sales tax holiday period, shall treat the reporting by such seller of sales revenue during such period, multiplied by the ratio of taxable sales to total sales for the same period in 2010 as the sales tax holiday period, as a good faith effort to comply with the requirements under subparagraph (B), and

(ii) shall not treat any such retail seller of tangible property who has made such a good faith effort liable for any error made as a result of such effort to comply unless it is shown that the retailer acted recklessly or fraudulently,

(3) in the case of any home rule State, the chief executive officer of such State certifies that all local governments that impose sales taxes in such State agree to provide a sales tax holiday during the sales tax holiday period,

(4) the chief executive officer of the State agrees to pay each local government's share of the reimbursement (as determined under subsection (d)) not later than 20 days after receipt of such reimbursement, and

(5) in the case of not more than 20 percent of the States which elect to receive the reimbursement of a reconciliation amount under subsection (b)(2), the Director of Management and Budget certifies the amount of the reimbursement required under subsection (b)(2) based on the reports by the chief executive officers of such States under paragraph (2)(C).

(d) DETERMINATION OF REIMBURSEMENT OF LOCAL SALES TAXES.—For purposes of subsection (c)(4), a local government's share of

the reimbursement to a State under this section shall be based on the ratio of the local sales tax to the State sales tax for such State for the same time period taken into account in determining such reimbursement, based on data published by the Bureau of the Census.

(e) DEFINITIONS.—For purposes of this section—

(1) HOME RULE STATE.—The term ''home rule State'' means a State that does not control imposition and administration of local taxes.

(2) LOCAL.—The term ''local'' means a city, county, or other subordinate revenue or taxing authority within a State.

(3) SALES TAX.—The term ''sales tax'' means—

(A) a tax imposed on or measured by general retail sales of taxable tangible property, or services performed incidental to the sale of taxable tangible property, that is—

(i) calculated as a percentage of the price, gross receipts, or gross proceeds, and

(ii) can or is required to be directly collected by retail sellers from purchasers of such property,

(B) a use tax, or

(C) the Illinois Retailers' Occupation Tax, as defined under the law of the State of Illinois, but excludes any tax payable with respect to food and beverages sold for immediate consumption on the premises, beverages containing alcohol, and tobacco products.

(4) SALES TAX HOLIDAY PERIOD.—The term ''sales tax holiday period'' means the period—

(A) beginning on the first Friday which is 30 days after the date of the enactment of this Act, and

(B) ending on the date which is 10 days after the date described in subparagraph (A).

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(6) STATE.—The term ''State'' means any of the several States, the District of Columbia, or the Commonwealth of Puerto Rico.

(7) USE TAX.—The term ''use tax'' means a tax imposed on the storage, use, or other consumption of tangible property that is not subject to sales tax.

SEC. _____. RESCISSION OF DISCRETIONARY AMOUNTS APPROPRIATED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

(a) IN GENERAL.—All discretionary amounts made available by the American Recovery and Reinvestment Act of 2009 (123 Stat. 115; Public Law No: 111-5) that are unobligated on the date of the enactment of this Act are hereby rescinded.

(b) ADMINISTRATION.—Not later than 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(1) administer the reduction specified in subsection (a); and

(2) submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives a report specifying the account and the amount of each reduction made pursuant to subsection (a).

SA 3390. Mr. BURR proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. ___. EXTENSION AND MODIFICATION OF CERTAIN ECONOMIC RECOVERY PAYMENTS.

(a) SHORT TITLE.—This section may be cited as the ''Emergency Senior Citizens Relief Act of 2010''.

(b) EXTENSION AND MODIFICATION OF PAYMENTS.—Section 2201 of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) in subsection (a)(1)(A)—

(A) by inserting ''for each of calendar years 2009 and 2010'' after ''shall disburse'',

(B) by inserting ''(for purposes of payments made for calendar year 2009), or the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010 (for purposes of payments made for calendar year 2010)'' after ''the date of the enactment of this Act'', and

(C) by adding at the end the following new sentence: ''In the case of an individual who is eligible for a payment under the preceding sentence by reason of entitlement to a benefit described in subparagraph (B)(i), no such payment shall be made to such individual for calendar year 2010 unless such individual was paid a benefit described in such subparagraph (B)(i) for any month in the 12-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010.'',

(2) in subsection (a)(1)(B)(iii), by inserting ''(for purposes of payments made under this paragraph for calendar year 2009), or the 3-month period ending with the month which ends prior to the month that includes the date of the enactment of the Emergency Senior Citizens Relief Act of 2010 (for purposes of payments made under this paragraph for calendar year 2010)'' before the period at the end,

(3) in subsection (a)(2)—

(A) by inserting '', or who are utilizing a foreign or domestic Army Post Office, Fleet Post Office, or Diplomatic Post Office address'' after ''Northern Mariana Islands'', and

(B) by striking ''current address of record'' and inserting ''address of record, as of the date of certification under subsection (b) for a payment under this section'',

(4) in subsection (a)(3)—

(A) by inserting ''per calendar year (determined with respect to the calendar year for which the payment is made, and without regard to the date such payment is actually paid to such individual)'' after ''only 1 payment under this section'', and

(B) by inserting ''FOR THE SAME YEAR'' after ''PAYMENTS'' in the heading thereof,

(5) in subsection (a)(4)—

(A) by inserting ''(or, in the case of subparagraph (D), shall not be due)'' after ''made'' in the matter preceding subparagraph (A),

(B) by striking subparagraph (A) and inserting the following:

''(A) in the case of an individual entitled to a benefit specified in paragraph (1)(B)(i) or paragraph (1)(B)(ii)(VIII) if—

''(i) for the most recent month of such individual's entitlement in the applicable 3-month period described in paragraph (1); or

''(ii) for any month thereafter which is before the month after the month of the payment;

such individual's benefit under such paragraph was not payable by reason of subsection (x) or (y) of section 202 of the Social Security Act (42 U.S.C. 402) or section 1129A of such Act (42 U.S.C. 1320a-8a);'',

(C) in subparagraph (B), by striking ''3 month period'' and inserting ''applicable 3-month period'',

(D) by striking subparagraph (C) and inserting the following:

''(C) in the case of an individual entitled to a benefit specified in paragraph (1)(C) if—

''(i) for the most recent month of such individual's eligibility in the applicable 3-month period described in paragraph (1); or

''(ii) for any month thereafter which is before the month after the month of the payment;

such individual's benefit under such paragraph was not payable by reason of subsection (e)(1)(A) or (e)(4) of section 1611 (42 U.S.C. 1382) or section 1129A of such Act (42 U.S.C. 1320a-8a); or'',

(E) by striking subparagraph (D) and inserting the following:

''(D) in the case of any individual whose date of death occurs—

''(i) before the date of the receipt of the payment; or

''(ii) in the case of a direct deposit, before the date on which such payment is deposited into such individual's account.'',

(F) by adding at the end the following flush sentence:

''In the case of any individual whose date of death occurs before a payment is negotiated (in the case of a check) or deposited (in the case of a direct deposit), such payment shall not be due and shall not be reissued to the estate of such individual or to any other person.'', and

(G) by adding at the end, as amended by subparagraph (F), the following new sentence: ''Subparagraphs (A)(ii) and (C)(ii) shall apply only in the case of certifications under subsection (b) which are, or but for this paragraph would be, made after the date of the enactment of Emergency Senior Citizens Relief Act of 2010, and shall apply to such certifications without regard to the calendar year of the payments to which such certifications apply.''.

(6) in subsection (a)(5)—

(A) by inserting '', in the case of payments for calendar year 2009, and no later than 120 days after the date of the enactment of the Emergency Senior Citizens Relief Act of 2010, in the case of payments for calendar year 2010'' before the period at the end of the first sentence of subparagraph (A), and

(B) by striking subparagraph (B) and inserting the following:

''(B) DEADLINE.—No payment for calendar year 2009 shall be disbursed under this section after December 31, 2010, and no payment for calendar year 2010 shall be disbursed under this section after December 31, 2011, regardless of any determinations of entitlement to, or eligibility for, such payment made after whichever of such dates is applicable to such payment.'',

(7) in subsection (b), by inserting ''(except that such certification shall be affected by a determination that an individual is an individual described in subparagraph (A), (B), (C), or (D) of subsection (a)(4) during a period described in such subparagraphs), and no individual shall be certified to receive a payment under this section for a calendar year if such individual has at any time been denied certification for such a payment for such calendar year by reason of subparagraph (A)(ii) or (C)(ii) of subsection (a)(4) (unless such individual is subsequently determined not to have been an individual described in either such subparagraph at the time of such denial)'' before the period at the end of the last sentence,

(8) in subsection (c), by striking paragraph (4) and inserting the following:

''(4) PAYMENTS SUBJECT TO OFFSET AND RECLAMATION.—Notwithstanding paragraph (3), any payment made under this section—

''(A) shall, in the case of a payment by direct deposit which is made after the date of

the enactment of the Emergency Senior Citizens Relief Act of 2010, be subject to the reclamation provisions under subpart B of part 210 of title 31, Code of Federal Regulations (relating to reclamation of benefit payments); and

''(B) shall not, for purposes of section 3716 of title 31, United States Code, be considered a benefit payment or cash benefit made under the applicable program described in subparagraph (B) or (C) of subsection (a)(1), and all amounts paid shall be subject to offset under such section 3716 to collect delinquent debts.'',

(9) in subsection (e)—

(A) by striking ''2011'' and inserting ''2012'',

(B) by inserting ''section _____(c) of the Emergency Senior Citizens Relief Act of 2010,'' after ''section 2202,'' in paragraph (1), and

(C) by adding at the following new paragraph:

''(5)(A) For the Secretary of the Treasury, an additional $5,200,000 for purposes described in paragraph (1).

''(B) For the Commissioner of Social Security, an additional $5,000,000 for the purposes described in paragraph (2)(B).

''(C) For the Railroad Retirement Board, an additional $600,000 for the purposes described in paragraph (3)(B).

''(D) For the Secretary of Veterans Affairs, an additional $625,000 for the Information Systems Technology account''.

(c) EXTENSION OF SPECIAL CREDIT FOR CERTAIN GOVERNMENT RETIREES.—

(1) IN GENERAL.—In the case of an eligible individual (as defined in section 2202(b) of the American Recovery and Reinvestment Tax Act of 2009, applied by substituting ''2010'' for ''2009''), with respect to the first taxable year of such individual beginning in 2010, section 2202 of the American Recovery and Reinvestment Tax Act of 2009 shall be applied by substituting ''2010'' for ''2009'' each place it appears.

(2) CONFORMING AMENDMENT.—Subsection (c) of section 36A of the Internal Revenue Code of 1986 is amended by inserting '', and any credit allowed to the taxpayer under section _____(c)(1) of the Emergency Senior Citizens Relief Act of 2010'' after ''the American Recovery and Reinvestment Tax Act of 2009''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) APPLICATION OF RULE RELATING TO DECEASED INDIVIDUALS.—The amendment made by subsection (a)(5)(F) shall take effect as if included in section 2201 of the American Recovery and Reinvestment Tax Act of 2009.

(e) EMERGENCY DESIGNATION.—This section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (P.L. 111-139), and designated as an emergency requirement and necessary to meet emergency needs pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(f) USE OF STIMULUS FUNDS TO OFFSET SPENDING.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded pro rata such that the aggregate amount of such rescissions equals $14,361,000,000 in order to offset the net increase in spending resulting from the provisions of, and amendments made by, subsections (b) and (c) of this section. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SA 3391. Mr. BROWN of Massachusetts proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the end of title I, add the following:

SEC. 103. EMPLOYEE PAYROLL TAX RATE CUT.

(a) IN GENERAL.—For the 6-calendar-month period beginning after the date which is 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall reduce the rate of tax under section 3101(a) of the Internal Revenue Code of 1986 and 50 percent of the rate of tax under section 1401(a) of such Code by such percentage such that the resulting reduction in revenues to the Federal Old-Age and Survivors Insurance Trust Fund is equal to 90 percent of the amounts appropriated or made available and remaining unobligated under division A of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5) (other than under title X of such division A) as of the date of the enactment of this Act.

(b) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendment not been enacted.

(c) RESCISSION OF CERTAIN STIMULUS FUNDS.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 116), from the amounts appropriated or made available under division A of such Act (other than under title X of such division A), there is rescinded 100 percent of the remaining unobligated amounts as of the date of the enactment of this Act. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

(d) EMERGENCY DESIGNATION.—This section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)) and section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. In the House of Representatives, this section is designated as an emergency for purposes of pay-as-you-go principles.

SA 3392. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, strike lines 7 through 16 and insert the following:

SEC. 131. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

(d) TRANSFER OF STIMULUS FUNDS.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues resulting from the amendments made by this section.

SA 3393. Mr. BEGICH submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 12, between lines 19 and 20, insert the following:

SEC. _____. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES BY NATIVE CORPORATIONS.

(a) IN GENERAL.—Paragraph (2) of section 170(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN NATIVE CORPORATIONS.—

''(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) which—

''(I) is made by a Native Corporation, and

''(II) is a contribution of property which was land conveyed under the Alaska Native Claims Settlement Act,

shall be allowed to the extent that the aggregate amount of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

''(ii) LIMITATION.—This subparagraph shall not apply to any contribution of property described in clause (i)(II) which, by itself or when aggregated to any other property to which this subparagraph applies, is a contribution of more than 10 percent of the land conveyed to the Native Corporation described in clause (i)(I) under the Alaska Native Claims Settlement Act.

''(iii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

''(iv) DEFINITION.—For purposes of this subparagraph, the term 'Native Corporation' has the meaning given such term by section 3(m) of the Alaska Native Claims Settlement Act.

''(v) TERMINATION.—This subparagraph shall not apply to any contribution in any taxable year beginning after December 31, 2010.''.

(b) CONFORMING AMENDMENT.—Section 170(b)(2)(A) of such Code is amended by striking ''subparagraph (B) applies'' and inserting ''subparagraphs (B) or (C) apply''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to modify any existing property rights conveyed to Native Corporations (withing the meaning of section 3(m) of the Alaska Native Claims Settlement Act) under such Act.

SA 3394. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. ___. ENHANCED RESEARCH CREDIT FOR DOMESTIC MANUFACTURERS.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(i) ENHANCED CREDIT FOR DOMESTIC MANUFACTURERS.—

''(1) IN GENERAL.—In the case of a qualified domestic manufacturer, this section shall be applied by increasing the following by the bonus amount:

''(A) The 20 percent amount under subsection (a)(1).

''(B) The 20 percent amount under subsection (a)(2).

''(C) The 20 percent amount under subsection (a)(3).

''(D) The 14 percent amount under subsection (c)(5)(A).

''(2) QUALIFIED DOMESTIC MANUFACTURER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified domestic manufacturer' means a taxpayer who has domestic production gross receipts which are more than 50 percent of total production gross receipts.

''(B) DOMESTIC PRODUCTION GROSS RECEIPTS.—The term 'domestic production gross receipts' has the meaning given to such term under section 199(c)(4).

''(C) TOTAL PRODUCTION GROSS RECEIPTS.—The term 'total production gross receipts' means the gross receipts of the taxpayer which are described in section 199(c)(4), determined—

''(i) without regard to whether property described in subparagraph (A)(i)(I) or (A)(i)(III) thereof was manufactured, produced, grown, or extracted in the United States,

''(ii) by substituting 'any property described in section 168(f)(3)' for 'any qualified film' in subparagraph (A)(i)(II) thereof, and

''(iii) without regard to whether any construction described in subparagraph (A)(ii) thereof or services described in subparagraph (A)(iii) thereof were performed in the United States.

''(3) BONUS AMOUNT.—For purposes of paragraph (1), the bonus amount shall be determined as follows:

''If the percentage of total production gross receipts which are domestic production gross receipts is:	**The bonus amount is:**
More than 50 percent and not more than 60 percent	2 percentage points
More than 60 percent and not more than 70 percent	4 percentage points
More than 70 percent and not more than 80 percent	6 percentage points
More than 80 percent and not more than 90 percent	8 percentage points
More than 90 percent	10 percentage points.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after the date of the enactment of this Act.

SA 3395. Mrs. LINCOLN (for herself, Ms. SNOWE, Ms. COLLINS, Ms. STABENOW, Mr. CRAPO, Mr. CORNYN, Ms. CANTWELL, Ms. KLOBUCHAR, Mrs. MURRAY, Mr. ROBERTS, and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, between lines 14 and 15, insert the following:

SEC. ___. MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION CREDIT FOR BIOMASS FACILITIES.

(a) CREDIT ALLOWED FOR ON-SITE USE OF ELECTRICITY PRODUCED FROM BIOMASS.—Subsection (e) of section 45 is amended by adding at the end the following new paragraph:

''(12) CREDIT ALLOWED FOR ELECTRICITY PRODUCED FROM BIOMASS FOR ON-SITE USE.—In the case of electricity produced after the date of the enactment of this paragraph at any facility described in paragraph (2) or (3) of subsection (d) which is equipped with a metering device to determine electricity consumption or sale, subsection (a)(2) shall be applied without regard to subparagraph (B) thereof with respect to such electricity produced and consumed at such facility.''.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to electricity produced after the date of the enactment of this Act.

SA 3396. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 77, strike line 24 and all that follows through page 80, line 10, and insert the following:

(c) SPECIALTY CROP ASSISTANCE.—

(1) DEFINITIONS.—In this subsection:

(A) DISASTER COUNTY.—

(i) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 or 2010 crop year.

(ii) EXCLUSION.—The term ''disaster county'' does not include a contiguous county.

(B) ELIGIBLE SPECIALTY CROP PRODUCER.—The term ''eligible specialty crop producer'' means an agricultural producer that, for the 2009 or 2010 crop year, or both, as determined by the Secretary—

(i) produced, or was prevented from planting, a specialty crop; and

(ii) experienced crop losses in a disaster county due to excessive rainfall, freeze, drought, or a related condition.

(2) ASSISTANCE.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $500,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to excessive rainfall, freeze, drought, and related conditions affecting the 2009 or 2010 crop, or both.

(3) NOTIFICATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(4) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties with excessive rainfall, freeze, drought, and related conditions on a pro rata basis based on the value of specialty crop losses in those counties during the 2009 and 2010 calendar years, as determined by the Secretary.

(B) TIMING.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(C) MAXIMUM GRANT.—The maximum amount of a grant made to a State under this subsection may not exceed $100,000,000.

(5) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible specialty crop producers for losses due to a qualifying natural disaster;

(B) provide assistance to eligible specialty crop producers not later than 90 days after the date on which the State receives grant funds; and

(C) not later than 60 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(6) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 and 2010 crop year (as applicable) under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

SA 3397. Mr. ROCKEFELLER (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

SEC. —. MODIFICATION OF STANDARDS FOR WINDOWS, DOORS, AND SKYLIGHTS WITH RESPECT TO THE CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Paragraph (4) of section 25C(c) of the Internal Revenue Code of 1986 is amended by striking ''unless'' and all that follows and inserting ''unless—

''(A) in the case of any component placed in service after the date which is 90 days after the date of the enactment of the American Workers, State, and Business Relief Act of 2010, such component meets the criteria for such components established by the 2010 Energy Star Program Requirements for Residential Windows, Doors, and Skylights, Version 5.0 (or any subsequent version of such requirements which is in effect after January 4, 2010),

''(B) in the case of any component placed in service after the date of the enactment of the American Workers, State, and Business Relief Act of 2010 and on or before the date which is 90 days after such date, such component meets the criteria described in subparagraph (A) or is equal to or below a U factor of 0.30 and SHGC of 0.30, and

''(C) in the case of any component which is a garage door, such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SA 3398. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 431, insert the following:

Subtitle E—Cooperative Governing of Individual Health Insurance Coverage

SEC. 441. SHORT TITLE.

This subtitle may be cited as the ''Health Care Choice Act of 2010''.

SEC. 442. SPECIFICATION OF CONSTITUTIONAL AUTHORITY FOR ENACTMENT OF LAW.

This subtitle is enacted pursuant to the power granted Congress under article I, section 8, clause 3, of the United States Constitution.

SEC. 443. FINDINGS.

Congress finds the following:

(1) The application of numerous and significant variations in State law impacts the ability of insurers to offer, and individuals to obtain, affordable individual health insurance coverage, thereby impeding commerce in individual health insurance coverage.

(2) Individual health insurance coverage is increasingly offered through the Internet, other electronic means, and by mail, all of which are inherently part of interstate commerce.

(3) In response to these issues, it is appropriate to encourage increased efficiency in the offering of individual health insurance coverage through a collaborative approach by the States in regulating this coverage.

(4) The establishment of risk-retention groups has provided a successful model for the sale of insurance across State lines, as the acts establishing those groups allow insurance to be sold in multiple States but regulated by a single State.

SEC. 444. COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Title XXVII of the Public Health Service Act (42 U.S.C. 300gg et seq.) is amended by adding at the end the following:

''PART D—COOPERATIVE GOVERNING OF INDIVIDUAL HEALTH INSURANCE COVERAGE

''SEC. 2795. DEFINITIONS.

''In this part:

''(1) PRIMARY STATE.—The term 'primary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, the State designated by the issuer as the State whose covered laws shall govern the health insurance issuer in the sale of such coverage under this part. An issuer, with respect to a particular policy, may only designate one such State as its primary State with respect to all such coverage it offers. Such an issuer may not change the designated primary State with respect to individual health insurance coverage once the policy is issued, except that such a change may be made upon renewal of the policy. With respect to such designated State, the issuer is deemed to be doing business in that State.

''(2) SECONDARY STATE.—The term 'secondary State' means, with respect to individual health insurance coverage offered by a health insurance issuer, any State that is not the primary State. In the case of a health insurance issuer that is selling a policy in, or to a resident of, a secondary State, the issuer is deemed to be doing business in that secondary State.

''(3) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning given such term in section 2791(b)(2), except that such an issuer must be licensed in the primary State and be qualified to sell individual health insurance coverage in that State.

''(4) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered in the individual market, as defined in section 2791(e)(1).

''(5) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State with respect to the issuer.

''(6) HAZARDOUS FINANCIAL CONDITION.—The term 'hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a health insurance issuer is unlikely to be able—

''(A) to meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or

''(B) to pay other obligations in the normal course of business.

''(7) COVERED LAWS.—

''(A) IN GENERAL.—The term 'covered laws' means the laws, rules, regulations, agreements, and orders governing the insurance business pertaining to—

''(i) individual health insurance coverage issued by a health insurance issuer;

''(ii) the offer, sale, rating (including medical underwriting), renewal, and issuance of individual health insurance coverage to an individual;

''(iii) the provision to an individual in relation to individual health insurance coverage of health care and insurance related services;

''(iv) the provision to an individual in relation to individual health insurance coverage of management, operations, and investment activities of a health insurance issuer; and

''(v) the provision to an individual in relation to individual health insurance coverage of loss control and claims administration for a health insurance issuer with respect to liability for which the issuer provides insurance.

''(B) EXCEPTION.—Such term does not include any law, rule, regulation, agreement, or order governing the use of care or cost management techniques, including any requirement related to provider contracting, network access or adequacy, health care data collection, or quality assurance.

''(8) STATE.—The term 'State' means the 50 States and includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(9) UNFAIR CLAIMS SETTLEMENT PRACTICES.—The term 'unfair claims settlement practices' means only the following practices:

''(A) Knowingly misrepresenting to claimants and insured individuals relevant facts or policy provisions relating to coverage at issue.

''(B) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under policies.

''(C) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under policies.

''(D) Failing to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear.

''(E) Refusing to pay claims without conducting a reasonable investigation.

''(F) Failing to affirm or deny coverage of claims within a reasonable period of time after having completed an investigation related to those claims.

''(G) A pattern or practice of compelling insured individuals or their beneficiaries to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

''(H) A pattern or practice of attempting to settle or settling claims for less than the amount that a reasonable person would believe the insured individual or the individual's beneficiary was entitled by reference to written or printed advertising material accompanying or made part of an application.

''(I) Attempting to settle or settling claims on the basis of an application that was materially altered without notice to, or knowledge or consent of, the insured.

''(J) Failing to provide forms necessary to present claims within 15 calendar days of a requests with reasonable explanations regarding their use.

''(K) Attempting to cancel a policy in less time than that prescribed in the policy or by the law of the primary State.

''(10) FRAUD AND ABUSE.—The term 'fraud and abuse' means an act or omission committed by a person who, knowingly and with intent to defraud, commits, or conceals any material information concerning, one or more of the following:

''(A) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by an insurer, a reinsurer, broker, or its agent, false information as part of, in support of, or concerning a fact material to one or more of the following:

''(i) An application for the issuance or renewal of an insurance policy or reinsurance contract.

''(ii) The rating of an insurance policy or reinsurance contract.

''(iii) A claim for payment or benefit pursuant to an insurance policy or reinsurance contract.

''(iv) Premiums paid on an insurance policy or reinsurance contract.

''(v) Payments made in accordance with the terms of an insurance policy or reinsurance contract.

''(vi) A document filed with the commissioner or the chief insurance regulatory official of another jurisdiction.

''(vii) The financial condition of an insurer or reinsurer.

''(viii) The formation, acquisition, merger, reconsolidation, dissolution, or withdrawal from one or more lines of insurance or reinsurance in all or part of a State by an insurer or reinsurer.

''(ix) The issuance of written evidence of insurance.

''(x) The reinstatement of an insurance policy.

''(B) Solicitation or acceptance of new or renewal insurance risks on behalf of an insurer, reinsurer, or other person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction.

''(C) Transaction of the business of insurance in violation of laws requiring a license,

certificate of authority, or other legal authority for the transaction of the business of insurance.

''(D) Attempt to commit, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this paragraph.

''SEC. 2796. APPLICATION OF LAW.

''(a) IN GENERAL.—The covered laws of the primary State shall apply to individual health insurance coverage offered by a health insurance issuer in the primary State and in any secondary State, but only if the coverage and issuer comply with the conditions of this section with respect to the offering of coverage in any secondary State.

''(b) EXEMPTIONS FROM COVERED LAWS IN A SECONDARY STATE.—Except as provided in this section, a health insurance issuer with respect to its offer, sale, rating (including medical underwriting), renewal, and issuance of individual health insurance coverage in any secondary State is exempt from any covered laws of the secondary State (and any rules, regulations, agreements, or orders sought or issued by such State under or related to such covered laws) to the extent that such laws would—

''(1) make unlawful, or regulate, directly or indirectly, the operation of the health insurance issuer operating in the secondary State, except that any secondary State may require such an issuer—

''(A) to pay, on a nondiscriminatory basis, applicable premium and other taxes (including high risk pool assessments) which are levied on insurers and surplus lines insurers, brokers, or policyholders under the laws of the State;

''(B) to register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process;

''(C) to submit to an examination of its financial condition by the State insurance commissioner in any State in which the issuer is doing business to determine the issuer's financial condition, if—

''(i) the State insurance commissioner of the primary State has not done an examination within the period recommended by the National Association of Insurance Commissioners; and

''(ii) any such examination is conducted in accordance with the examiners' handbook of the National Association of Insurance Commissioners and is coordinated to avoid unjustified duplication and unjustified repetition;

''(D) to comply with a lawful order issued—

''(i) in a delinquency proceeding commenced by the State insurance commissioner if there has been a finding of financial impairment under subparagraph (C); or

''(ii) in a voluntary dissolution proceeding;

''(E) to comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance commissioner alleging that the issuer is in hazardous financial condition;

''(F) to participate, on a nondiscriminatory basis, in any insurance insolvency guaranty association or similar association to which a health insurance issuer in the State is required to belong;

''(G) to comply with any State law regarding fraud and abuse (as defined in section 2795(10)), except that if the State seeks an injunction regarding the conduct described in this subparagraph, such injunction must be obtained from a court of competent jurisdiction;

''(H) to comply with any State law regarding unfair claims settlement practices (as defined in section 2795(9)); or

''(I) to comply with the applicable requirements for independent review under section 2798 with respect to coverage offered in the State;

''(2) require any individual health insurance coverage issued by the issuer to be countersigned by an insurance agent or broker residing in that secondary State; or

''(3) otherwise discriminate against the issuer issuing insurance in both the primary State and in any secondary State.

''(c) CLEAR AND CONSPICUOUS DISCLOSURE.—A health insurance issuer shall provide the following notice, in 12-point bold type, in any insurance coverage offered in a secondary State under this part by such a health insurance issuer and at renewal of the policy, with the 5 blank spaces therein being appropriately filled with the name of the health insurance issuer, the name of primary State, the name of the secondary State, the name of the secondary State, and the name of the secondary State, respectively, for the coverage concerned:

This policy is issued by _____, and is governed by the laws and regulations of the State of _____, and it has met all the laws of that State as determined by that State's Department of Insurance. This policy may be less expensive than others because it is not subject to all of the insurance laws and regulations of the State of _____, including coverage of some services or benefits mandated by the law of the State of _____. Additionally, this policy is not subject to all of the consumer protection laws or restrictions on rate changes of the State of _____. As with all insurance products, before purchasing this policy, you should carefully review the policy and determine what health care services the policy covers and what benefits it provides, including any exclusions, limitations, or conditions for such services or benefits.''.

''(d) PROHIBITION ON CERTAIN RECLASSIFICATIONS AND PREMIUM INCREASES.—

''(1) IN GENERAL.—For purposes of this section, a health insurance issuer that provides individual health insurance coverage to an individual under this part in a primary or secondary State may not upon renewal—

''(A) move or reclassify the individual insured under the health insurance coverage from the class such individual is in at the time of issue of the contract based on the health-status related factors of the individual; or

''(B) increase the premiums assessed the individual for such coverage based on a health status-related factor or change of a health status-related factor or the past or prospective claim experience of the insured individual.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed to prohibit a health insurance issuer—

''(A) from terminating or discontinuing coverage or a class of coverage in accordance with subsections (b) and (c) of section 2742;

''(B) from raising premium rates for all policy holders within a class based on claims experience;

''(C) from changing premiums or offering discounted premiums to individuals who engage in wellness activities at intervals prescribed by the issuer, if such premium changes or incentives—

''(i) are disclosed to the consumer in the insurance contract;

''(ii) are based on specific wellness activities that are not applicable to all individuals; and

''(iii) are not obtainable by all individuals to whom coverage is offered;

''(D) from reinstating lapsed coverage; or

''(E) from retroactively adjusting the rates charged an insured individual if the initial rates were set based on material misrepresentation by the individual at the time of issue.

''(e) PRIOR OFFERING OF POLICY IN PRIMARY STATE.—A health insurance issuer may not offer for sale individual health insurance coverage in a secondary State unless that coverage is currently offered for sale in the primary State.

''(f) LICENSING OF AGENTS OR BROKERS FOR HEALTH INSURANCE ISSUERS.—Any State may require that a person acting, or offering to act, as an agent or broker for a health insurance issuer with respect to the offering of individual health insurance coverage obtain a license from that State, with commissions or other compensation subject to the provisions of the laws of that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

''(g) DOCUMENTS FOR SUBMISSION TO STATE INSURANCE COMMISSIONER.—Each health insurance issuer issuing individual health insurance coverage in both primary and secondary States shall submit—

''(1) to the insurance commissioner of each State in which it intends to offer such coverage, before it may offer individual health insurance coverage in such State—

''(A) a copy of the plan of operation, feasibility study, or any similar statement of the policy being offered and its coverage (which shall include the name of its primary State and its principal place of business);

''(B) written notice of any change in its designation of its primary State; and

''(C) written notice from the issuer of the issuer's compliance with all the laws of the primary State; and

''(2) to the insurance commissioner of each secondary State in which it offers individual health insurance coverage, a copy of the issuer's quarterly financial statement submitted to the primary State, which statement shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by—

''(A) a member of the American Academy of Actuaries; or

''(B) a qualified loss reserve specialist.

''(h) POWER OF COURTS TO ENJOIN CONDUCT.—Nothing in this section shall be construed to affect the authority of any Federal or State court to enjoin—

''(1) the solicitation or sale of individual health insurance coverage by a health insurance issuer to any person or group who is not eligible for such insurance; or

''(2) the solicitation or sale of individual health insurance coverage that violates the requirements of the law of a secondary State which are described in subparagraphs (A) through (H) of subsection (b)(1).

''(i) POWER OF SECONDARY STATES TO TAKE ADMINISTRATIVE ACTION.—Nothing in this section shall be construed to affect the authority of any State to enjoin conduct in violation of that State's laws described in subsection (b)(1).

''(j) STATE POWERS TO ENFORCE STATE LAWS.—

''(1) IN GENERAL.—Subject to the provisions of subsection (b)(1)(G) (relating to injunctions) and paragraph (2), nothing in this section shall be construed to affect the authority of any State to make use of any of its powers to enforce the laws of such State with respect to which a health insurance issuer is not exempt under subsection (b).

''(2) COURTS OF COMPETENT JURISDICTION.—If a State seeks an injunction regarding the conduct described in paragraphs (1) and (2) of subsection (h), such injunction must be obtained from a Federal or State court of competent jurisdiction.

''(k) STATES' AUTHORITY TO SUE.—Nothing in this section shall affect the authority of any State to bring action in any Federal or State court.

''(l) GENERALLY APPLICABLE LAWS.—Nothing in this section shall be construed to affect the applicability of State laws generally applicable to persons or corporations.

''(m) GUARANTEED AVAILABILITY OF COVERAGE TO HIPPA ELIGIBLE INDIVIDUALS.—To the extent that a health insurance issuer is offering coverage in a primary State that does not accommodate residents of secondary States or does not provide a working mechanism for residents of a secondary State, and the issuer is offering coverage under this part in such secondary State which has not adopted a qualified high risk pool as its acceptable alternative mechanism (as defined in section 2744(c)(2)), the issuer shall, with respect to any individual health insurance coverage offered in a secondary State under this part, comply with the guaranteed availability requirements for eligible individuals in section 2741.

''SEC. 2797. PRIMARY STATE MUST MEET FEDERAL FLOOR BEFORE ISSUER MAY SELL INTO SECONDARY STATES.

''A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State if the State insurance commissioner does not use a risk-based capital formula for the determination of capital and surplus requirements for all health insurance issuers.

''SEC. 2798. INDEPENDENT EXTERNAL APPEALS PROCEDURES.

''(a) RIGHT TO EXTERNAL APPEAL.—A health insurance issuer may not offer, sell, or issue individual health insurance coverage in a secondary State under the provisions of this title unless—

''(1) both the secondary State and the primary State have legislation or regulations in place establishing an independent review process for individuals who are covered by individual health insurance coverage, or

''(2) in any case in which the requirements of paragraph (1) are not met with respect to either of such States, the issuer provides an independent review mechanism substantially identical (as determined by the applicable State authority of such State) to that prescribed in the 'Health Carrier External Review Model Act' of the National Association of Insurance Commissioners for all individuals who purchase insurance coverage under the terms of this part, except that, under such mechanism, the review is conducted by an independent medical reviewer, or a panel of such reviewers, with respect to whom the requirements of subsection (b) are met.

''(b) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—In the case of any independent review mechanism referred to in subsection (a)(2), the following provisions shall apply:

''(1) IN GENERAL.—In referring a denial of a claim to an independent medical reviewer, or to any panel of such reviewers, to conduct independent medical review, the issuer shall ensure that—

''(A) each independent medical reviewer meets the qualifications described in paragraphs (2) and (3);

''(B) with respect to each review, each reviewer meets the requirements of paragraph (4) and the reviewer, or at least 1 reviewer on the panel, meets the requirements described in paragraph (5); and

''(C) compensation provided by the issuer to each reviewer is consistent with paragraph (6).

''(2) LICENSURE AND EXPERTISE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

''(A) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

''(B) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

''(3) INDEPENDENCE.—

''(A) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

''(i) not be a related party (as defined in paragraph (7));

''(ii) not have a material familial, financial, or professional relationship with such a party; and

''(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

''(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

''(i) prohibit an individual, solely on the basis of affiliation with the issuer, from serving as an independent medical reviewer if—

''(I) a non-affiliated individual is not reasonably available;

''(II) the affiliated individual is not involved in the provision of items or services in the case under review;

''(III) the fact of such an affiliation is disclosed to the issuer and the enrollee (or authorized representative) and neither party objects; and

''(IV) the affiliated individual is not an employee of the issuer and does not provide services exclusively or primarily to or on behalf of the issuer;

''(ii) prohibit an individual who has staff privileges at the institution where the treatment involved takes place from serving as an independent medical reviewer merely on the basis of such affiliation if the affiliation is disclosed to the issuer and the enrollee (or authorized representative) and neither party objects; or

''(iii) prohibit receipt of compensation by an independent medical reviewer from an entity if the compensation is provided consistent with paragraph (6).

''(4) PRACTICING HEALTH CARE PROFESSIONAL IN SAME FIELD.—

''(A) IN GENERAL.—In a case involving treatment, or the provision of items or services—

''(i) by a physician, a reviewer shall be a practicing physician (allopathic or osteopathic) of the same or similar specialty, as a physician who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review; or

''(ii) by a non-physician health care professional, the reviewer, or at least 1 member of the review panel, shall be a practicing non-physician health care professional of the same or similar specialty as the non-physician health care professional who, acting within the appropriate scope of practice within the State in which the service is provided or rendered, typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

''(B) PRACTICING DEFINED.—For purposes of this paragraph, the term 'practicing' means, with respect to an individual who is a physician or other health care professional, that the individual provides health care services to individual patients on average at least 2 days per week.

''(5) PEDIATRIC EXPERTISE.—In the case of an external review relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

''(6) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by the issuer to an independent medical reviewer in connection with a review under this section shall—

''(A) not exceed a reasonable level; and

''(B) not be contingent on the decision rendered by the reviewer.

''(7) RELATED PARTY DEFINED.—For purposes of this section, the term 'related party' means, with respect to a denial of a claim under a coverage relating to an enrollee, any of the following:

''(A) The issuer involved, or any fiduciary, officer, director, or employee of the issuer.

''(B) The enrollee (or authorized representative).

''(C) The health care professional that provides the items or services involved in the denial.

''(D) The institution at which the items or services (or treatment) involved in the denial are provided.

''(E) The manufacturer of any drug or other item that is included in the items or services involved in the denial.

''(F) Any other party determined under any regulations to have a substantial interest in the denial involved.

''(8) DEFINITIONS.—For purposes of this subsection:

''(A) ENROLLEE.—The term 'enrollee' means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

''(B) HEALTH CARE PROFESSIONAL.—The term 'health care professional' means an individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification.

''SEC. 2799. ENFORCEMENT.

''(a) IN GENERAL.—Subject to subsection (b), with respect to specific individual health insurance coverage, the primary State for such coverage has sole jurisdiction to enforce the primary State's covered laws in the primary State and any secondary State.

''(b) SECONDARY STATE'S AUTHORITY.—Nothing in subsection (a) shall be construed to affect the authority of a secondary State to enforce its laws as set forth in the exception specified in section 2796(b)(1).

''(c) COURT INTERPRETATION.—In reviewing action initiated by the applicable secondary State authority, the court of competent jurisdiction shall apply the covered laws of the primary State.

''(d) NOTICE OF COMPLIANCE FAILURE.—In the case of individual health insurance coverage offered in a secondary State that fails to comply with the covered laws of the primary State, the applicable State authority of the secondary State may notify the applicable State authority of the primary State.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individual health insurance coverage offered, issued, or sold after the date that is one year after the date of the enactment of this Act.

(c) GAO ONGOING STUDY AND REPORTS.—

(1) STUDY.—The Comptroller General of the United States shall conduct an ongoing study concerning the effect of the amendment made by subsection (a) on—

(A) the number of uninsured and under-insured;

(B) the availability and cost of health insurance policies for individuals with pre-existing medical conditions;

(C) the availability and cost of health insurance policies generally;

(D) the elimination or reduction of different types of benefits under health insurance policies offered in different States; and

(E) cases of fraud or abuse relating to health insurance coverage offered under such amendment and the resolution of such cases.

(2) ANNUAL REPORTS.—The Comptroller General shall submit to Congress an annual report, after the end of each of the 5 years following the effective date of the amendment made by subsection (a), on the ongoing study conducted under paragraph (1).

SEC. 445. SEVERABILITY.

If any provision of this subtitle or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this subtitle and the application of the provisions of such to any other person or circumstance shall not be affected.

SA 3399. Mr. NELSON of Florida (for himself and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 268, between lines 11 and 12, insert the following:

SEC. _____. MODIFICATION OF EXCEPTION FROM 10 PERCENT EARLY WITHDRAWAL PENALTY FOR PUBLIC SAFETY EMPLOYEES.

(a) REPEAL OF RESTRICTION TO DEFINED BENEFIT PLANS.—Subparagraph (A) of section 72(t)(10)(A) is amended by striking ''which is a defined benefit plan''.

(b) APPLICATION TO ANNUITIES COMMENCING BEFORE THE PENSION PROTECTION ACT OF 2006.—Paragraph (10) of section 72(t) is amended by adding at the end the following new subparagraph:

''(C) TRANSITIONAL RULE FOR ANNUITIES.—Paragraph (4) shall not apply to any modification to a series of substantially equal periodic payments which are made with respect to a qualified public safety employee if such series of payments commenced—

''(i) before the date of the enactment of the Pension Protection Act of 2006, and

''(ii) after such qualified public safety employee's separation from service after attainment of age 50.''.

(c) EFFECTIVE DATES.—

(1) REPEAL OF RESTRICTION TO DEFINED BENEFIT PLANS.—The amendment made by subsection (a) shall apply to distributions made after the date of the enactment of the Pension Protection Act of 2006.

(2) TRANSITIONAL RULE FOR ANNUITIES.—The amendment made by subsection (b) shall apply to modifications made after the date of the enactment of the Pension Protection Act of 2006.

SA 3400. Mr. SPECTER submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following:

SEC. 602. LOAN GUARANTEES FOR SHIPYARDS AND REPROGRAMMING OF FUNDS FOR SEALIFT CAPACITY.

Section 115 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of Public Law 108–199; 118 Stat. 439), as amended by section 1017 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 250), is amended to read as follows:

''SEC. ____. (a)(1) Of the amounts provided in the Department of Defense Appropriations Act, 2002 (Public Law 107–117; 115 Stat. 2244), the Department of Defense Appropriations Act, 2003 (Public Law 107–248; 116 Stat. 1533), and the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 117 Stat. 1068) under the heading 'NATIONAL DEFENSE SEALIFT FUND' for construction of additional sealift capacity, notwithstanding section 2218(c)(1) of title 10, United States Code—

''(A) $15,000,000, shall be made available for the Secretary of Transportation to make loan guarantees as described in subsection (b); and

''(B) $25,000,000, shall be made available for—

''(i) design testing simulation and construction of infrastructure improvements to a marine cargo terminal capable of supporting a mixed use of traditional container operations, high speed loading and off-loading, and military sealift requirements; and

''(ii) engineering, simulation, and feasibility evaluation of advance design vessels for the transport of high-value, time sensitive cargoes to expand a capability to support military sealift, aviation, and commercial operations.

''(2) The amounts made available in this subsection shall remain available until expended.

''(b)(1) A loan guarantee described in this subsection is a loan guarantee issued by the Secretary of Transportation to maintain the capability of a qualified shipyard to construct a large ocean going commercial vessel if the applicant for such a loan guarantee demonstrates that absent such loan guarantee—

''(A) the domestic capacity for the construction of large ocean going commercial vessels will be significantly impaired;

''(B) more than 1,000 shipbuilding-related jobs will be terminated at any one facility; and

''(C) the capability of domestic shipyards to meet the demand for replacement and expansion of the domestic ocean going commercial fleet will be significantly constrained.

''(2) In this subsection, the term 'qualified shipyard' means a shipyard that—

''(A) is located in the United States;

''(B) consists of at least one facility with not less than of 1,000 employees;

''(C) has exclusively constructed ocean going commercial vessels larger than 20,000 gross registered tons;

''(D) delivered 8 or more such ocean going commercial vessels during the 5-year period ending on the date of the enactment of the American Workers, State, and Business Relief Act of 2010; and

''(E) applies for a loan guarantee made available pursuant to subsection (a)(1)(A).

''(3) Notwithstanding the provisions of chapter 537 of subtitle V of title 46, United States Code, or any regulations issued pursuant to such chapter, a loan guarantee pursuant to subsection (a)(1)() shall be issued only to a qualified shipyard upon commitment by the qualified shipyard of not less than $40,000,000 in equity and demonstrated proof that actual construction of the new vessel for which such loan guarantee was issued will commence not later than April 30, 2010.

''(4) A loan guarantee issued pursuant to subsection (a)(1)(A) shall be deemed to have a subsidy rate of no greater than 9 percent.

''(5) The Secretary of Transportation shall select each qualified shipyard to receive a loan guarantee pursuant to subsection (a)(1)(A) not later than 60 days after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.''.

SA 3401. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 75, line 4, strike ''excessive rainfall or related'' and insert ''drought, excessive rainfall, or a related''.

On page 76, line 1, insert ''fruits and vegetables or'' before ''crops intended''.

On page 76, line 13, strike ''90'' and insert ''112.5''.

Beginning on page 76, strike line 18 and all that follows through ''(4)'' on page 77, line 17, and insert ''(3)''.

On page 78, strike lines 3 through 7 and insert the following: ''not more than $300,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to a natural disaster affecting the 2009 crops, of which not more than—

(A) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of drought; and

(B) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of excessive rainfall or a related condition.

On page 78, lines 18 and 19, strike ''with excessive rainfall and related conditions''.

On page 78, line 21, strike ''2008'' and insert ''2009''.

On page 79, lines 4 and 5, strike ''under this subsection'' and insert ''for counties described in paragraph (1)(B)''.

On page 80, between lines 3 and 4, insert the following:

(5) PROHIBITION.—An eligible specialty crop producer that receives assistance under this subsection shall be ineligible to receive assistance under subsection (b).

On page 80, line 4, strike ''(5)'' and insert ''(6)''.

On page 87, between lines 4 and 5, insert the following:

(h) HAY QUALITY LOSS ASSISTANCE PROGRAM.—

(1) DEFINITION OF DISASTER COUNTY.—In this subsection:

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for flooding that occurred during the period beginning on May 1, 2009, and ending on December 31, 2009.

(B) EXCLUSION.—The term ''disaster county'' does not include—

(i) a contiguous county; or

(ii) a county that had less than a 10-percent loss in the quality of the 2009 crop of hay, as determined by the Secretary.

(2) ASSISTANCE.—Of the funds of the Commodity Credit Corporation, the Secretary shall use such sums as are necessary to provide assistance to eligible producers of the 2009 crop of hay that suffered quality losses in a disaster county due to flooding that occurred during the period beginning on May 1, 2009, and ending on December 31, 2009.

(3) ELIGIBILITY.—

(A) IN GENERAL.—To be eligible to receive assistance under this subsection, a producer shall certify to the Secretary that the average quality loss of the producer meets or exceeds the approved quality adjustment for hay due to flooding at harvest.

(B) EVIDENCE.—

(i) IN GENERAL.—In making the certification described in subparagraph (A), the producer shall provide to the Secretary reliable and verifiable evidence of the quality loss and the production of the producer.

(ii) LACK OF EVIDENCE.—If evidence described in clause (i) is not available, the Secretary shall use—

(I) in the case of unavailable quality loss evidence, documentation provided by the Cooperative Extension Service, State Department of Agriculture, or other reliable sources, including institutions of higher education, buyers, and cooperatives, as to the extent of quality loss in the disaster county; and

(II) in the case of unavailable production evidence, the county average yield, as determined by the Secretary.

(4) DETERMINATION OF PAYMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of assistance provided under this subsection to an eligible producer shall equal the product obtained by multiplying, as determined by the Secretary—

(i) the quantity of hay harvested by the eligible producer;

(ii) a quality adjustment that is equal to the difference between—

(I) the average price per ton for average quality hay; and

(II) the average price per ton for poor quality hay due to flooding; and

(iii) 65 percent.

(B) LIMITATION.—The maximum amount that an eligible producer may receive under this subsection is $40,000.

(5) RELATIONSHIP TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(6) ADJUSTED GROSS INCOME LIMITATION.—A person or legal entity with an average adjusted gross nonfarm income that exceeds the amount described in section 1001D(b)(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(b)(1)(A)) shall be ineligible to receive benefits under this subsection.

(7) DIRECT ATTRIBUTION.—In carrying out this subsection, the Secretary shall apply section 1001(e) of the Food Security Act of 1985 (7 U.S.C. 1308(e)).

On page 87, line 5, strike ''(h)'' and insert ''(i)''.

On page 89, line 15, insert ''for the purchase, improvement, or operation of the poultry farm'' after ''lender''.

On page 89, strike line 24 and insert the following:

(j) STATE AND LOCAL GOVERNMENTS.—Section 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(f)(6)(A)) is amended by inserting ''(other than the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of this Act)'' before the period at the end.

(k) ADMINISTRATION.—

On page 90, line 4, insert ''and the amendment made by this section'' after ''section''.

On page 90, line 7, insert ''and the amendment made by this section'' before ''shall be''.

On page 91, line 1, strike ''$15,000,000'' and insert ''$10,000,000''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Wednesday, March 10, 2010, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on energy efficiency bills, including S. 1696, the Green Gaming Act of 2009; S. 2908, the Water Heater Rating Improvement Act of 2009; S. 3059, the National Energy Efficiency Enhancement Act of 2010; S. 3054, a bill to amend the Energy Policy and Conservation Act to establish efficiency standards for bottle-type water dispensers, commercial hot food holding cabinets, and portable electric spas; and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Rosemarie_Calabro @energy.senate.gov.

For further information, please contact Allen Stayman or Rosemarie Calabro.

SUBCOMMITTEE ON WATER AND POWER

Mr. BINGAMAN. Mr. President, this is to correct the purpose of a hearing before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources previously announced on March 1st. The hearing will be held on Tuesday, March 16, 2010, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to receive testimony on the Bureau of Reclamation's implementation of the SECURE Water Act, (Title 9501 of P.L. 111–11) and the Bureau of Reclamation's WaterSMART program which includes the WaterSMART Grant Program, the Basin Study Program and the Title XVI Program.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to Gina_Weinstock@energy.senate .gov.

For further information, please contact Tanya Trujillo or Gina Weinstock.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. WEBB. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 3, 2010, at 4:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WEBB. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on March 3, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WEBB. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on March 3, 2010, at 10 a.m. in room 406 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WEBB. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 3, 2010, at 10 a.m. in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The 2010 Trade Agenda.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. WEBB. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on March 3, 2010, at 9:30 a.m. to conduct a hearing entitled ''Chemical Security: Assessing Progress and Charting a Path Forward.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WEBB. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on March 3, 2010, at 2:15 p.m. in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Encouraging Innovative and Cost-Effective Crime Reduction Strategies.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. WEBB. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on March 3, 2010. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. WEBB. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on March 3, 2010, at 2:30 p.m. in order to conduct a hearing entitled ''Oversight Challenges In The Medicare Prescription Drug Program.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OCEAN, ATMOSPHERE, FISHERIES, AND COAST GUARD

Mr. WEBB. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere,

Fisheries, and Coast Guard of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 3, 2010, at 10 a.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. WEBB. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, March 3, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff be allowed the privilege of the floor during consideration of the pending bill: Mary Baker, Ivie English, Lucas Hamilton, Sam Kohn, Scott Mathews, Tsveta Polhemus, and Meena Sharma.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to consider Executive Calendar Nos. 603, 604, 610, 625, 629, 630, and 700 so that the nominees be confirmed en bloc, the motions to reconsider be laid upon the table en bloc; that no further motions be in order; and that any statements related to the nominations be printed in the Record; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Laura E. Kennedy, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during her tenure of service as U.S. Representative to the Conference on Disarmament.

Eileen Chamberlain Donahoe, of California, for the rank of Ambassador during her tenure of service as the United States Representative to the UN Human Rights Council.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Paul R. Verkuil, of Florida, to be Chairman of the Administrative Conference of the United States for the term of five years.

DEPARTMENT OF HOMELAND SECURITY

Elizabeth M. Harman, of Maryland, to be an Assistant Administrator of the Federal Emergency Management Agency, Department of Homeland Security.

FEDERAL TRADE COMMISSION

Julie Simone Brill, of Vermont, to be a Federal Trade Commissioner for the term of seven years from September 26, 2009.

Edith Ramirez, of California, to be a Federal Trade Commissioner for the term of seven years from September 26, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Lillian A. Sparks, of Maryland, to be Commissioner of the Administration for Native Americans, Department of Health and Human Services.

NOMINATION OF JULIE BRILL

Mr. LEAHY. Mr. President, I am pleased that the Senate today confirmed Julie Brill as Commissioner of the Federal Trade Commission, FTC. I have known Julie for her work during nearly 20 years as an Assistant Attorney General from Vermont, and believe that both the FTC and consumers around the country will benefit greatly from her appointment.

Ms. Brill is extremely well qualified to serve as an FTC Commissioner. She graduated from Princeton University and New York University Law School, served as a law clerk to the Vermont Federal Judge Franklin Billings, and served both as an Assistant Attorney General in Vermont and General Counsel of the Vermont Department of Banking, Insurance and Securities. Most recently, Ms. Brill worked as Senior Deputy Attorney General of the Consumer Protection Division in the North Carolina Department of Justice. Over her professional career, Ms. Brill has worked on critical issues in agriculture, tobacco, food, pharmaceuticals, and identity theft. Her expertise and intelligence have allowed her to excel in all of these areas.

The FTC has an important role in protecting consumers from unfair and deceptive trade practices as well as anticompetitive behavior by businesses. Ms. Brill will serve consumers well in her new position as a Commissioner.

Ms. Brill has spent much of her professional life working on behalf of the people of Vermont, and I look forward to continuing to work with her as she helps to advance Chairman Leibowitz's active agenda. I know her family, and was delighted to introduce her at her confirmation hearing. I congratulate Ms. Brill on her confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

ORDERS FOR THURSDAY, MARCH 4, 2010

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, March 4; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 4213, the Tax Extenders Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. There will be rollcall votes throughout the day tomorrow as we continue to work through this important legislation.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:57 p.m., adjourned until Thursday, March 4, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

SCOTT M. MATHESON, JR., OF UTAH, TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT, VICE MICHAEL W. MCCONNELL, RESIGNED.

DEPARTMENT OF JUSTICE

KENNETH J. GONZALES, OF NEW MEXICO, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW MEXICO FOR THE TERM OF FOUR YEARS, VICE DAVID CLAUDIO IGLESIAS.

MICHAEL C. ORMSBY, OF WASHINGTON, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF WASHINGTON FOR THE TERM OF FOUR YEARS, VICE JAMES A. MCDEVITT.

WILLIE RANSOME STAFFORD III, OF NORTH CAROLINA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS, VICE HARLON EUGENE COSTNER.

DEPARTMENT OF LABOR

JAMES L. TAYLOR, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF LABOR, VICE DOUGLAS W. WEBSTER, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

MATTHEW H. ADAMS
CLAUDINE M. ANDOLA
LARRY A. BABIN, JR.
CHAD B. BALFANZ
JACOB D. BASHORE
RYAN BEERY
CANDACE M. BESHERSE
BRADFORD D. BIGLER
TIMOTHY J. BILECKI
JENNIFER J. BOWERSOX
HOLLY K. BRYANT
PAUL D. CARLSON
NAGESH CHELLURI
THOMAS L. CLARK, JR.
HOWARD C. CLAYTON
STEVEN J. COLLINS
JESSICA CONN
PATRICK L. DAVIS
JOHN C. DOHN II
JEROME P. DUGGAN
DAVID A. DULANEY
BONNIE L. DUNLOP
MATTHEW S. FITZGERALD
SCOTT R. FORD
LAWRENCE P. GILBERT
RICHARD E. GORINI
JOHN J. GOWEL
KATHERINE S. GOWEL
PATRICK B. GRANT
JOSEPH P. GROSS
KEVIN G. HELLER
CARL E. HILL
KELLI A. HOOKE
SCOTT Z. HUGHES
NATHAN P. JACOBS
WILLIAM B. JENNINGS
KEVIN M. JINKS
ERIC A. JONKER
MICHAEL P. KAVANAGH
KEIRSTEN H. KENNEDY
ANDREW K. KERNAN
JOSHUA L. KESSLER
DANIEL R. KICZA
JACK H. KO
JOHN R. KOKOSZKA
MATTHEW A. KRAUSE
JOSEPH E. KRILL
DANIEL R. KUECKER
MARGARET V. KURZ

JONATHAN LAMBERT
ILDIKO E. LANE
GARY R. LEVY, JR.
TODD L. LINDQUIST
SALLY R. MACDONALD
ERIC L. MAYER
SCOTT A. MCDONALD
TYSON S. MCDONALD
ELIZABETH A. MCFARLAND
GARY P. MCNEAL
MARY E. MEEK
MICHAEL J. OCONNOR
AUTUMN OLEARY
DARREN W. POHLMANN
MICHAEL G. POND
KRISTY L. RADIO
HOBE A. SCHOLZ
MATTHEW C. SCOTT
MEGAN SHAW
VINCENT T. SHULER
ANDREW J. SMITH
GREGORY T. STRICKER
BRIAN R. SYKES
JOHN T. TUTTEROW
ANTHONY J. VALENTI
MATTHEW H. WATTERS

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

PETER W. MCDANIEL

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DENNIS L. PARKS

THE FOLLOWING NAMED LIMITED DUTY OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DEAN R. KECK

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

STEVE K. BRAUND
STEVEN E. SPROUT

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

CHARLES E. DANIELS
JAY A. ROGERS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

TIMOTHY L. COLLINS
STEVEN J. LENGQUIST

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

MICHAEL R. GLASS
DONALD L. HULTZ

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

STEVEN M. DOTSON
MARK A. IVY
JAMES I. SAYLOR

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JACK G. ABATE
RAYMOND E. BARNETT
JASON A. HIGGINS

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

MICHAEL C. BIEMILLER

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

ELWOOD M. BARNES
JIMMY M. BROWNING
RONALD M. HARVELL
STEVEN P. MCCAIN
DOUGLAS J. SLATER, SR.
TIMOTHY P. WAGONER
REX A. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

CALVIN N. ANDERSON
MARGARETE P. ASHMORE
JIMMY LEE BARDIN
BRADLEY L. BELL
NATHAN M. BERMAN
VINCENT M. BUQUICCHIO
FRANZISKA J. CHOPP
DON M. CHRISTENSEN
DONALD RICHARD ELLER, JR.
MARK A. HATCH
KRISTINE M. KIJEK
CHARLES C. KILLION
ROBIN P. KIMMELMAN
JENNIFER L. MARTIN
ROBERT L. MAY, JR.
JOE W. MOORE
BRYNN P. MORGAN
ADAM OLER
HEATHER L. OSTERHAUS
DAVID W. PENCZAR
BARBARA E. SHESTKO
VANCE HUDSON SPATH
ROGER M. WELSH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

BRIAN L. BENGS
SCOTT D. BOEHNE
JANE E. BOOMER
THOMAS E. BYRON
DOUGLAS F. CRABTREE
RICHARD L. DASHIELL
JOSEPH F. DENE
CHAD L. DIEDERICH
ROBERT M. GERLEMAN
JOHN E. GILLILAND
TOMMY E. GREGORY
ROBERT S. HALL
ROBERT S. HUME
JULIE J. R. HUYGEN
JOSEPH S. IMBURGIA
JENNIFER R. KRAMME
RICHARD H. LADUE, JR.
LUCAS J. LANDRENEAU
BRADFORD U. LARSON
LINELL A. LETENDRE
DEBRA A. LUKER
CHRISTOPHER MCMAHON
THANH LAN BICH NGUYEN
CHRISTOPHER J. NOWICKI
MYNDA L. G. OHMAN
KATHLEEN J. OROURKE
BRUCE D. PAGE, JR.
LYNDELL M. POWELL
KENNETH W. SACHS
SHELLY W. SCHOOLS
STEPHEN E. SEE
SUZETTE D. SEUELL
SHANNON L. SHERWIN
KATHRYN E. STENGELL
KEVIN P. STIENS
MATTHEW D. VAN DALEN
KEVIN J. WILKINSON
LISA F. WILLIS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DONNETTE A. BOYD
DONALD W. BRETZ
BILL BURRELL
MARK A. CRUMPTON
DAVID L. MANSBERGER
SHON NEYLAND
MICHAEL S. RASH
SCOTT L. RUMMAGE
PAUL D. SUTTER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

RICHARD S. BEYEA III
MATTHEW A. BOARTS
ERIC P. BOYER
KRISTINA Y. COPPINGER
KRISTOFFER K. COX
LARRY J. FOWLER
JULIAN C. GAITHER
KENNETH E. JOHNSON, JR.
EUGENE F. LAHUE
CHRISTOPHER M. LAPACK
WILLIAM D. LOGAN
RAYMOND D. MONCRIEF
CHARLES R. MONTOYA, JR.
SCOTT P. NUPSON
ISMAEL RODRIGUEZ
RANDY L. SELLERS
MICHAEL D. SHANNON
JACK S. STANLEY
MARK F. THOMAS
HYRAL B. WALKER, JR.
TRAVIS C. YELTON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

AFSANA AHMED
KENNETH A. ARTZ
ANDREW R. BARKER
CHELSEA L. BARTOE
PETER THOMAS BEAUDETTE, JR.
TYLER D. BUCKLEY
DONALD N. BUGG
MARIE J. CALABRESE
SARAH D. CARPENTER
ALLISON CHISOLM DANELS
LAUREN N. DIDOMENICO
CHARLES B. DISHMAN
SEAN M. ELAMETO
JEREMY J. EMMERT
ZACHARY T. EYTALIS
TODD J. FANNIFF
MICHAEL J. FELSEN
ADAM E. FREY
BRIAN R. GAGNE
CHARLES J. GARTLAND
JAMES G. GENTRY
BYRON D. GREENE
ALEXANDRA CATHERIN HALCHAK
MATTHEW EDWARD HILL
RYAN N. HOBACK
SCOTT A. HODGES
MICHAEL TODD HOPKINS
TRAVIS ANDERS HUBBLE
AMBER B. JACOBY
CHRISTOPHER DAVID JONES
JACK M. JONES, JR.
JASON F. KEEN
CHARLES G. KELS
MICHAEL SPENCER KERR
JOANNA M. KIEFFER
MICHAEL G. KING
AMER MAHMUD
KATHY D. MALOWNEY
KRISTIN K. MCCALL
MATTHEW N. MCCALL
HUGH B. MCCLEAN
NICHOLAS WILLIAM MCCUE
JEREMY K. MCKISSACK
NICHOLAS J. MEANZA
BRADLEY A. MORRIS
SARAH M. MOUNTIN
SHAWNTELL P. MULLINS
AARON S. OGDEN
GARY MATTHEW OSBORN
JOHN MERRITT PAGE
TRACY A. PARK
JOSEPH F. PERA
NAOMI NATASHA PORTERFIELD
LISA M. RICHARD
RONALD L. ROODHOUSE, JR.
CHRISTOPHER JOSEPH SCHUBBE
PATRICK M. SCHWOMEYER
NATHANIEL H. SEARS
JUSTIN A. SILVERMAN
MAXWELL S. SMART
STEVEN RAY SNORTLAND
SUZANNE E. STEPHENSON
JACQUELINE M. STINGL
ROBERT B. STIRK
MICHELLE MARIE SUBERLY
FELIX I. SUTANTO
SARA A. SWART
BRIAN D. TETER
GREGORY J. THOMPSON
DANIEL S. VAILLANT
SCOTT A. VAN SCHOYCK
ROBERT EUGENE VORHEES II
CHARLES G. WARREN
DANIEL J. WATSON
ERIC N. WEBER
REGGIE D. YAGER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JEREMY C. AAMOLD
HIRO ABABON
STEPHAN A. ABATE
BRANDON R. ABEL
MATTHEW J. ABELE
DENNIS F. ABRAMOWICZ
ALICIA D. ABRAMS
LUIS J. ADAMES
EDDIE H. ADAMS III
FRANKLIN M. ADAMS
GEORGE E. ADAMS
ISAAC E. ADAMS
JASON G. ADAMS
JEFFREY S. ADAMS
JOHN F. ADAMS, JR.
WILLIAM D. ADAMS

BRIAN S. ADCOCK
NICHELE D. ADEOGUN
JOHN T. AGNEW
RAJ AGRAWAL
SCOTT W. AHRENS
ROBERT A. AIKMAN II
DANIEL O. AKEREDOLU
ADAM T. AKERS
JAMES D. AKERS II
MICHAEL S. ALBERS
DANZEL W. ALBERTSEN
JASON A. ALBERTSON
ERIC C. ALDEN
JOHN E. ALDERMAN
JAMES D. ALDRICH
STEPHEN C. ALDRIDGE
SALVADOR ALEMAN
ANTHONY S. ALEXANDER
DAVID S. ALEXANDER
GARRY J. ALEXANDER
KERRI V. ALEXANDER
PERRY D. ALEXANDER
DANIEL M. ALFORD
PERRY G. ALFRED
CRAIG W. ALLDREDGE
BILLY S. ALLEN
CHRISTOPHER B. ALLEN
CHRISTOPHER IAN ALLEN
CHRISTOPHER W. ALLEN
DEAN C. ALLEN
JAMES F. ALLEN
KYLE S. ALLEN
RONALD E. ALLEN
JEARL C. ALLMAN
LANCE P. ALLRED
JOSUE A. ALOMAR
RONALDO D. ALOMBRO
BRADLEY D. ALTMAN
PIERRE P. ALVARADO
PAUL ALVAREZ
STEVEN M. ALVERSON
RALPH D. ALVORD
MARK A. AMENDT
NICHOLAS J. AMENTA
MATTHEW B. AMIG
MARCO H. AMINNI
CRAIG A. ANDERS
CLARENCE ANDERSON III
DAVID B. ANDERSON
DAVID M. ANDERSON
DAWN D. ANDERSON
JAMES R. ANDERSON
JEFFREY H. ANDERSON
KELLY S. ANDERSON
LAMONT D. ANDERSON
MARK C. ANDERSON
MATTHEW E. ANDERSON
MICHAEL L. ANDERSON
RYAN J. ANDERSON
STEPHEN G. ANDERSON
STEPHEN M. ANDERSON
JIM E. ANDREWS
TODD R. ANDREWSEN
CHRISTOPHER J. ANGLIN
ROBERT A. ANSON
DAVID S. ANTONIO
CORY J. ANTOSH
CASSANDRA P. ANTWINE
DARRELL M. APILADO
GARY E. ARASIN, JR.
JAYVIN L. ARBORE
MICHAEL A. ARCHIBEQUE
DAVID A. ARENDSE
JUTTA S. ARKAN
BRITTON LEE ARMSTRONG
GEORGIA LEE ARMSTRONG
PATRICK D. ARMSTRONG
STEPHEN P. ARNOTT
VICTOR L. ARTIBEY II
SETH W. ASAY
ALBERT J. ASHBY
GEOFFREY MICHAEL ASHBY
IAN C. ASHURST
DENIQUE G. ASION
SAMUEL L. ASTON
STEVEN L. ATKINSON
STEVEN C. ATTAWAY
DARIN J. ATTEBERRY
CHANDLER P. ATWOOD
KATHRYN M. AUGSBURGER
MICHAEL L. AUL
TONY A. AULTMAN
JENNIFER M. AUPKE
JAKE K. AUSTIN
JAMES H. AUSTIN
JOE J. AUSTIN II
PHILLIP A. AUSTIN
NELSON AVILESFIGUEROA
THOMAS F. AVILUCEA
TAREK J. AWADA
JOHN E. AWE III
PETER M. AXT
MARLON A. AYERS
GERRED J. AYRES
FRANK A. AZARAVICH
JEREMY S. BABB
PAUL T. BABIARZ
BONIFACIO BACA, JR.
MARCOS MANUEL BACA
NANCY L. BACCHESCHI
JAMES A. BADGETT
NANCY E. BADGETT
JASON F. BAGGETT
RODNEY B. BAGLEY
BRYAN M. BAILEY
ERIC D. BAILEY
MELISSA A. BAILEY
BRENT R. BAK
CLIFTON E. BAKER
DONALD E. BAKER
JOHN M. BAKER
JUDD W. BAKER
PATRICK D. BALDWIN
JOEY M. BALK
MICHAEL BALLAK
WILLIAM H. BALLARD
DAVID J. BALMER
RICKIE A. BANISTER
THOMAS A. BANKER
AARON B. BANKS
DEVIN D. BANKS
GAYLE B. BARAJAS
ELIZABETH A. BARBER
MADONNA M. BARBEYTO
BENJAMIN P. BARBOUR
RICHARD P. BARBOUR
JEFFREY L. BARKER
JOSEPH F. BARNARD
TIMOTHY J. BARNARD
SHERRI E. BARNES
TRACY A. BARNETT
LEROY J. BARNHILL, JR.
ADAM W. BARRETT
JAMES J. BARRETT
NATHAN E. BARRETT
BRYAN M. BARROQUEIRO
BRUCE D. BARRY
DAWN L. BARTELL
JASON R. BARTELS
CAROLYN R. BARTLEY
DAVID R. BARTLEY III
ZACHARY D. BARTOE
CHARLES J. BARTON
JAMES R. BARTRAN II
BRAD J. BASHORE
TROY D. BASNETT
PATRICK J. BASS
BENJAMIN B. BATES
SCOTT A. BATES
BRIAN K. BATSON
ARIEL G. BATUNGBACAL
MARGARET M. BAUCOM
MICHAEL C. BAUMGARTNER
LEO J. BAUSTIAN
CLIFFORD M. BAYNE
JAMISON D. BAYSDEN
RICHARD A. BAYSINGER
TIMOTHY BAZZLE
JOHNATHAN R. BEACH
ROBERT J. BEAL
JASON M. BEAN
THOMAS M. BEAN
CASEY M. BEARD
JEFFRY C. BEARD
RACHEL E. BEARD
DAVID K. BEASLEY
CHRISTOPHER J. BEATTIE
JOHN DONALD BEATTY
REBECCA L. BEAUDETTE
WILLIAM M. BEAUTER
CHRISTOPHER D. BEAVER
CAROLINE E. BECK
PETER L. BECK
GARY P. BECKETT
EARL M. BEDNAR
BRIAN D. BEECHER
JACK E. BEENE
BRANDON C. BEERS
LYDIA A. BEERS
MEREDITH S. BEG
RICHARD E. BEGGS, JR.
TIFFANY L. BEHR
JAQUENETTE C. BELKA
LORENA T. BELL
RONALD W. BELL
JAMES C. BENCH
SHAWN P. BENDIG
JESSE J. BENEVICH
JERRY W. BENNETT, JR.
JOHN K. BENNETT
JOHNATHAN E. BENNETT
BRADLEY R. BENSON
EMILY C. BENSON
JOHN H. BENSON
CARLOS E. BERDECIA
ASHLEY J. BERG
GEORGE C. BERG
JENNIFER C. BERGER
JEREMY S. BERGIN
SCOT M. BERK
JONATHAN E. BERNACKI
DAVID BERRIOS
EDWIN J. BERRIOS
JAY A. BERTSCH
ANDREW P. BERVEN
SHAWN P. BESKAR
WILLIAM J. BESS, JR.
REGINALD D. BEST
MATTHEW D. BETHEL
MIRCEA M. BIAGINI
ERNEST T. BICE
STEPHEN F. BICHLER
DAVID G. BIEGER
TIMOTHY S. BIGGS
GARRET J. BILBO
SHAYLOR BILLINGS
STACIE N. BILLINGTON
JUSTIN R. BINDER
RICHARD A. BINGAMAN
ZEB SCOTT BIRDWELL
RONNIE H. BIRGE, JR.
GARY L. BISHOP II
HUBERT B. BISHOP
KEVIN J. BISHOP
BRYAN D. BLACK
PHYLIS D. BLACK
SCOTT P. BLACK
BRENT D. BLADOW
ERIC S. BLAIR
MICHEAL J. BLAKE
EDMUND J. BLANCHET
ADAM B. BLANKENSHIP
TIMOTHY J. BLASIMAN
MICHAEL J. BLAUSER
GREGORY O. BLAYLOCK
ZAK S. BLOM
JOEL T. A. BLOOMQUIST
NATHAN D. BOARDMAN
PAUL A. BOBNOCK
SHAWN E. BOCK
TODD F. BODE
CHRISTOPHER T. BODLEY
MICHAEL DAREN BOE
JAMES T. BOEHM
DARIN D. BOESIGER
STEPHANIE J. BOFF
STEVEN M. BOFFERDING
JASON M. BOISVERT
NICHOLAS M. BOLLUM
OSWALDO X. BONILLA
DAVID E. BONN
JODI A. BONNES
TIMMOTHY N. BONNES
SHAWN K. BOOHER
DOUGLAS L. BOOSER
CHRISTOPHER E. BOOTH
THEODORE W. BORN
CLARA B. BOROS
WILLIAM B. BORRON
JONATHAN BORTLE
JEFFREY K. BOSQUE
JASON M. BOSWELL
MICHAEL L. BOSWELL
CARL B. BOTTOLFSON
JORDAN T. BOUNDS
BENJAMIN E. BOURCY
JASON T. BOWDEN
ARNOLD H. BOWEN
GEOFFREY G. BOWMAN
CHARLIE W. BOYD, JR.
JAMES D. BOYD
WILLIAM F. BOYD
DAVID M. BOYER
JOE T. BOZARTH IV
STEPHEN C. BRADDY
WESLEY P. BRADFORD
DANIEL J. BRADLEY
KENNETH C. BRADLEY
MICHAEL E. BRADLEY
SCOTT R. BRADLEY
SARAH E. BRAGG
CHRISTOPHER M. BRAGINTON
JENNY LYNN BRAMBLETT
JEFFERY R. BRANDENBURG
SCOTT D. BRANDIMORE
ANTHONY BRANICK
JENNIFER A. BRANIGAN
MICHAEL J. BRANNON
GEOFFREY R. BRASSE
TIMOTHY K. BRAWNER
DARRYL J. BRAXTON
JOSEPH E. BRAXTON
SEAN C. BRAZEL
RAYMOND J. BREAULT
DAVID K. BREGAND
KELLY W. BREKKE
JAMES L. BRESSENDORFF
JADONNA BREWTON
MATTHEW A. BRICE
ROGER D. BRICKLEY, JR.
DAVID S. BRISTOW
JACOB A. C. BRITTINGHAM
DANIEL L. BRITTON
JOHN E. BROCHARD
HAROLD R. BROCK
MATTHEW F. BROCKHAUS
ADAM R. BROCKSHUS
KRISTIN M. BROCKSHUS
FRANK BROOKS
NATHAN D. BROSHEAR
STEVEN M. BROUSSARD
AARON B. BROWN
AARON D. BROWN
ERIC M. BROWN
JEFFREY W. BROWN
JEREMY D. BROWN
KEVIN L. BROWN
LEROY BROWN, JR.
RHETT W. BROWN
TRAVIS K. BROWN
WILLIAM P. BROWN
JAMES R. BROWNING
MARSHALL L. BROWNLEE
PHILIP N. BROYLES
DOUGLAS R. BRUCE
KURT M. BRUGGEMAN
JUSTIN P. BRUMLEY
STEPHEN BRUNE
CHRISTOPHER B. BRUNELLE
MATTHEW P. BRUNO
SARAH K. BRUNO
PAUL J. BRYAN II
CHRISTOPHER L. BRYANT
GORDON BRYANT III
PHILIP A. BRYANT
MATTHEW J. BUBAR
MICHAEL D. BUCHANAN
DOUGLAS C. BUCHHOLZ
DARRYL E. BUCK
LEAH J. BUCKLEY
BOBBY D. BUCKNER, JR.

JOHN T. BUCKREIS
ADAM J. BUCZYNSKYJ
KEVIN G. BUDAI
CHERYL N. BUEHN
CAMDEN J. BUELL
KATE C. BUFTON
JONATHAN J. BUIE
PETER B. BUIKEMA
TRACY A. BUNKO
SAMUEL A. BUNTON
BRIAN J. BURGER
DONALD S. BURKE
PATRICK BURKE
NOEL G. BURKETT
MATTHEW G. BURKINSHAW
BRYON J. BURKS
JEFFREY J. BURLEY
DENISE M. BURNHAM
ASHLEY R. BURRILL
CHARMAINE BURRIS
MATTHEW M. BURY
KENNETH C. BUSH
KEVIN R. BUSH
ROSAIRE V. BUSHEY
CASEY P. BUSTA
EDWARD L. BUSTLE
PAUL F. BUSUTTIL, JR.
ROBERT J. BUTLER
SHELLEY A. BUTLER
TOMMY R. BUTLER
BRIAN E. BUTSON
MATTHEW T. BUTTERWORTH
LARRY GENE BUYCKS, JR.
ROBERT P. BYROM
SANDRA C. BYRUM
EMERSONN C. CABATU
JOSHUA A. CADICE
PEDRO A. CAETANO
JARED R. CAFFEY
CHRISTOPHER GARY CAIN
MARK S. CALDWELL
CHRISTOPHER M. CALLAHAN
SEAN M. CALLAHAN
SEAN M. CALLAHAN
JENNIFER L. CALLARO
JOSEPH J. CALLARO
RICARDO L. A. CAMEL
CHARLES S. CAMERER, JR.
LOUIS M. CAMILLI
ROD K. CAMP
SEAN M. CAMP
FORREST S. CAMPBELL III
JEFFREY E. CAMPBELL
JOSEPH M. CAMPBELL
KEVIN F. CAMPBELL
MATTHEW G. CAMPBELL
WILLIAM W. CAMPBELL
SEAN G. CANFIELD
CHRISTOPHER C. CANNON
PEGGY L. CANOPY
OMAR CANTU
ELLEN T. CANUPP
JUSTIN RICHARD CAPPER
BRIAN P. CARAMELLO
KENNETH L. CARD
CHRIS E. CARDEN
ROBERT D. CARDEN
ANDRE A. CARDOZA
BRYAN C. CARDWELL
JONATHAN J. H. CARLE
JAMES R. CARLSEN
BRYAN L. CARLSON
RANDALL E. CARLSON
MARISSA A. CARLTON
KENNETH R. CARMICHAEL
KEVIN W. CARMICHAEL
CHRISTOPHER M. CARNEY
MONTGOMERY S. CARPENTER
ANDREW D. CARR
FERNANDO C. CARREON
KEVIN J. CARRIGAN
RENE N. CARRILLO
MICHAEL CARRIZALES
BENJAMIN L. CARROLL
DAVID M. CARROLL
PATRICK G. CARROLL
THOMAS M. CARSON
DAVID C. CARTER
GEORGE CARTER
JOHN D. CARTER
RICHARD K. CARTER
J. B. CARTERET III
RYAN D. CARVILLE
KELLY D. CASE
LUKE B. CASPER
KIRT J. CASSELL
DAVID J. CASWELL
MARISA L. CATLIN
WILLIE F. CAUDILL
GREG V. CAVALLARO
KRISTEN L. CAVALLARO
DAWN RENEE CECIL
HENRY D. CECIL
VINCENT M. CERVETTI
HOLLY A. CHADWICK
JOHN M. CHAMBERLIN V
JASON D. CHAMBERS
MARK A. CHAPA
MICHELLE M. CHARLESTON
CHRISTOPHER M. CHASE
DANA N. CHATMAN
ANNALAURA CHAVEZ
STEPHEN J. CHENELLE
JOHN A. CHESSMAN
JOHN A. CHESTER
STEVEN M. CHETELAT
MICHAEL V. CHIARAMONTE
CAMILLE A. CHIGI
CARLOS E. CHIRIVI
KELII H. CHOCK
EUGENE L. CHOI
PAUL J. CHOI
JAMES M. CHRISTENSEN
LISA H. CHRISTENSEN
MICHAEL WAYNE CHRISTENSEN
SCOTT D. CHRISTENSEN
STEVEN D. CHRISTENSEN
TRAVIS E. CHRISTENSEN
TY CHRISTIAN
JOHN A. CHRISTIANSON
PAUL J. CHRISTIE
ALEXANDER C. CHRISTY
STEPHEN M. CHUPP, JR.
DONOVAN CIRINO
MICHAEL D. CLAPPER
BRIAN P. CLARK
CHERIE N. CLARK
GARFIELD T. CLARK
JASON G. CLARK
NATHAN D. CLARK
ROBERT B. CLARK
RONALD J. CLARK
THOMAS B. CLARK
MATTHEW R. CLAUSEN
KEVIN L. CLAYTON
CHARLES A. CLEGG
ROBERT D. CLEMENTS
JASON K. CLIFFORD
MICHAEL R. CLINE
SCOTT D. CLINE
GARY A. CLINTON, JR.
MICHAEL A. CLIVE
KAY JENNA CLODFELTER
RONALD V. CLOUGH
JASON E. CLUCHE
JOHN N. COATS, JR.
ERIK A. COBB
KENNETH L. COBB
NICHOLAS F. COBB
ERIK D. COBBS
KEVIN W. CODRINGTON
STEVEN L. COFFEE
ROBERT W. COFFEY
BRIAN D. COFFIELD
MICHAEL H. COHEN
JAMES MICHAEL COHN
DANIEL J. COIL
JEFFREY T. COLBURN
JOSEPH N. COLE
VERLAN R. COLE
ANTHONY C. COLELLA
ROLLAND J. COLEMAN
HECTOR L. COLLAZO
STEPHEN F. COLLETTI
JOHN M. COLLIER
JORDAN S. COLLINS
MICHAEL J. COLLINS
NICHOLOUS M. COLLINS
VICTOR A. COLON
JEREMY W. COLVIN
JEREMY W. COMSTOCK
ANDREW B. CONGDON
MICHAEL A. CONLAN
LYNETTE CONLEY
KIT R. CONN
WILLIAM G. CONNELLY, JR.
MICHAEL J. CONNOR, JR.
CHRISTOPHER E. CONRAD
SETH A. CONSTIEN
JAMES A. CONWAY
CARL E. COOK, JR.
DAVID A. COOK
TIMOTHY J. COOK
TODD M. COOK
MARK S. COOKE
WILLIAM B. COOKE
BRYAN G. COOPER
JAMES A. COOPER
CHRISTOPHER J. COPE
FRANK J. COPOUS
BRIAN L. COPPER, JR.
PAUL E. COPPER
SHANE A. CORDREY
JESSICA C. COREA
DANIEL A. CORINDIA
ROBERT W. CORLEY
CHRISTINA J. CORNELIUS
KIWEDIN D. CORNELL
JOHN W. CORNETT
LUIS F. CORREA, JR.
MATTHEW D. CORRIGAN
RYAN P. CORRIGAN
WILFREDO CORTEZ
JOSEPH A. COSLETT, JR.
JESUS M. COSME
ANDREW J. COSTELLO
SERGIO A. COSTILLA
JAMES D. COUCH
BRIAN K. COUGHLIN
LOREN M. COULTER
MELISSA M. COUTURE
CLAUDIO G. COVACCI
ROBERT A. COX, JR.
ANDREW P. CRABTREE
DONALD C. CRABTREE
DANIEL A. CRAIG
HAROLD L. CRAMER II
VICTORIA L. CRAMER
JODY L. CRAMPO
MICHAEL C. CREEDON
KEVIN M. CROFTON
BARRY A. CROKER
MICHAEL J. CROOK
BRIAN O. CROOKS
BARRY D. CROSBY
BARNARD CROSS
MICHAEL E. CROSSE
JAIME A. CROSSLER
RAY E. CROTTS II
JAMES S. CRUM
DANIEL J. CRUZ
ERNEST CSOMA
PEDRO CUADRA III
RUSSELL B. CUENCA
ANDREW J. CULLEN
LANDON H. CULPEPPER
DEVIN J. CUMMINGS
JOSHUA S. CUMMINGS
SHANNON CHRISTOPHER CUMMINS
CHRISTOPHER K. CUNNINGHAM
JAMES A. CUNNINGHAM
MARCUS A. CUNNINGHAM
ROBERT M. CURETON
DAVID W. CURL
DOUGLAS M. CURRAN
ROBERT D. CURRAN
PATRICK W. CURRIE
BRENT W. CURTIS
KATRINA L. CURTIS
ALEJANDRA CZERNIAK
DAVID M. CZESAK
SCOTT ALAN CZUBA
NASIMA N. DADA
DANIEL W. DAEHLER
RAYMOND L. DAGLEY
DANIEL E. DAHL
JUSTIN T. DAHMAN
MICHAEL J. DAIGH
AARON D. DAILEY
KENNY W. DAILEY
TIMOTHY D. DALBY
JEFFREY H. DALE
JAMES A. DAMATO
GABRIEL A. DAMICO
DAVID C. DAMMEIER
CORY M. DAMON
JOHN J. DAMRON
MIKEL S. DANIEL
TRACY A. DANIEL
BRIAN D. DANIELS
ERIC C. DANIELSEN
JAMES A. DANIK
MARY B. DANNER JONES
BRADLEY D. DARLING
TINA L. DAUZAT
JAMES W. DAVID
JOHN L. DAVIDS
PAUL T. DAVIDSON
DENNY R. DAVIES
EDWARD DAVIES IV
DANIEL F. DAVIS
JEFFREY S. DAVIS
JOHN S. DAVIS
KEVIN J. DAVIS
MARK E. DAVIS
MATTHEW JON DAVIS
MATTHEW T. DAVIS
PETER C. DAVIS
ROBERT D. DAVIS
JERRY DAVISSON
MATTHEW W. DAWSON
YOLANDA S. DAWSON
JEFFERY H. DAY
TIMOTHY J. DAY
MATTHEW DEAN
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ERIC J. RIVERO
ERICA M. RIVERS
JEFFREY J. RIVERS
TERESA D. RIVERS
NEAL R. ROACH
BRYAN J. ROBBINS
JOSEPH A. ROBERSON, JR.
BRIAN V. ROBERTS
GARRETT J. ROBERTS
MICHAEL L. ROBERTS
SCOTT A. ROBERTS
ROY E. ROBERTSON
MATTHEW W. ROBINS
ANDREW B. ROBINSON
JOSHUA H. ROCKHILL
GREGORY C. ROCKWOOD
NATHAN P. RODRIGUEZ
ORLANDO RODRIGUEZ
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SHANE D. ROGERS
ALAN T. ROHRER
MARK C. ROMAN
TIMOTHY R. ROMANS
TIMOTHY P. ROMIN
DON M. RONAN
JASON B. ROOKS
DEREK A. ROOT
DARNELL ROPER
ALFRED J. ROSALES
CHRISTOPHER ROBERT ROSALES
DARIN L. ROSE
JASON C. ROSE
ELIZABETH A. ROSEBORO
JOHN M. ROSNER
DOMINIC A. ROSS
GARY R. ROSS, JR.
MATTHEW P. ROSS
JASON F. ROSSI
MICHAEL P. ROSSI
CHRISTOPHER ROSZAK
CARL B. ROTERMUND
JASON R. ROTGE
KEVIN S. ROTHE
STEWART L. ROUNTREE
AMIT D. ROUTH
FRANK W. ROVELLO
JESSI R. ROZMAN
DANIEL M. RUBALCABA
NICCI S. RUCKER
BARRY R. RUDD
ADAM C. RUDOLPHI
BEN M. RUDOLPHI
BRADLEY A. RUETER
DANIEL E. RUETH
WILFREDO RUIZ
AARON L. RUONA
KAREN P. RUPP
CON A. RUSLING
JEREMY J. RUSSELL
SEAN D. RUSSELL
NICHOLAS J. RUSSO
RENEE R. RUSSO
KYLENE L. RUTH
JEFFREY L. RUTHERFORD
ANDREW R. RUTKOWSKI
DANIEL M. RUTTENBER
JESSICA N. RUTTENBER
DEVIN C. RYAN
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GERARDO SANCHEZ
JASON R. SANCHEZ
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MICHAEL J. SANDERS
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SALVATORE SARACENO
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BENJAMIN R. SCHEUTZOW
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JON M. SCHIEFELBEIN
JAMES E. SCHIESER
JAMES T. SCHIESS
KEITH R. SCHILAWSKI
NICHOLAS S. SCHINDLER
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ERNEST R. SCHMITT
DEAN R. SCHMUDE
DELVIN L. SCHMUNK
DAVID L. SCHNEIDER
JEFFREY A. SCHNEIDER
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ERIK N. SCHULTZ
PAUL D. SCHULTZ
CHRISTOPHER J. SCHULZ
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AVERY D. SCHUTT
STEVEN J. SCHUTT
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KARL R. SCHWENN
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BRENT A. SECKEL
JUSTIN D. SECREST
WILLIAM A. SEEFELDT
IRIS D. SEEGER
JASON L. SEELHORST
JAMES M. SEIBERT
ANTHONY EDWARD K. SEKI
AUBREY A. SEMRAU
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CARLOS A. SERBIA
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RYAN D. SERRILL
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JOHNATHON E. SHACKELFORD
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TODD W. SHARPE
FREDERICK A. SHAW
ROBERT R. SHAW, JR.
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CHAD L. SHENK
DAVID A. SHEPHERD
FRANKLYN K. SHEPHERD, JR.
VINCENT R. SHERER IV
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MICHAEL J. SHIELDS
BORIS SHIF
MATTHEW P. SHIPSTEAD
RICHARD B. SHOAF
JOHN V. SHOEMAKER
JOSHUA N. SHONKWILER
BRYAN E. SHORTER
MATTHEW R. SHRULL
JOSEPH H. SHUPERT

MARK SIDENO
WESLEY R. SIDES
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PARADON SILPASORNPRASIT
ANTONIO M. SILVERA
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CHRISTOPHER E. SIMMONS
ERIC W. SIMMONS
JEFFREY D. SIMMONS
RYAN S. SIMMS
MICHAEL J. SIMONS
SHARON D. SIMPKINS JONES
BRYAN P. SIMPSON
MATTHEW A. SIMPSON
TONY L. SIMPSON
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KAY E. SIPE
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MARK D. SKALKO
KELLY A. SKEENS
ANTHONY L. SKEESICK
WESLEY ADAM SKENFIELD
JACK SKILES III
ANITA C. SKIPPER
ROBERT J. SKOPECK, JR.
CHRISTOPHER A. SKOW
MARK W. SLATE
JAMES SLATON
JASON J. SLEGER
KIMBERLY K. SLOAN
MARTIN J. SLOVINSKY
LINDA L. SLUSARSKI
ANTONE R. SMITH
BRADFORD J. SMITH, JR.
CHRISTOPHER R. SMITH
DAMON L. SMITH
GEORGE H. SMITH III
GLEN W. SMITH
JASON D. SMITH
LARRY S. SMITH
NATHANIEL K. SMITH
OSCAR T. SMITH
PATRICK J. SMITH
PETER M. SMITH
PHILLIP A. SMITH
RACHEL K. SMITH
REGINALD L. SMITH
ROBERT E. SMITH
ROBIN D. SMITH
ROCHELLE D. SMITH
SCOTT A. SMITH
SCOTT E. SMITH
SCOTT SHANNON SMITH
TIMOTHY D. SMITH
TOBY S. SMITH
ZACHARY A. SMITH
LISA M. SMITTLE
SHANE R. SMOOT
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JOHN P. P. SNAPP, JR.
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RYAN E. SNIDER
SAMUEL M. SNODDY
DAVID N. SNODGRASS
ANDREW J. SNYDER
JEREMY L. SNYDER
LISA W. SNYDER
MATTHEW P. SNYDER
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CHARLES D. SOLOMON
RICHARD SOLORZANO
STEPHANIE M. SOLTIS
GREGORY E. SOMBORN
JASON G. SOMERS
PAUL N. SOMERS
AMANDA L. SOMERVILLE
JAMES M. SOMERVILLE
JONATHAN E. SOMOGYI
THOMAS E. SONNE
MICHAEL SONTAG
JOHN T. SOPHIE
KEITH A. SORSDAL
PAUL RUSSELL SORTOR
WILLIAM G. SOTO
JAMES SOUDERS
JOEL R. SOUKUP
JOHN M. SPARGUR
TIMOTHY J. SPAULDING
MATTHEW T. SPEER
BOONE C. SPENCER
KENDALL W. SPENCER
CANDICE M. SPERRY
RAYMOND H. K. SPOHR
BRIAN J. SPORYSZ
JULIE SPOSITO
MELISSA E. SPRAGUE
CHRISTOPHER A. SPRING
ZAN A. SPROLES
FREDERICK D. SPRUNGER
BERNARD R. SPRUTE
JEREMY E. ST LOUIS
TYLER L. STABILER
ROBERT K. STACHURSKI
CHEO F. STALLWORTH
DAWN STANDRIDGE
LISA M. STANLEY
MATTHEW F. STANLEY
STUART A. STANTON
EDWARD J. STAPANON III
MICHAEL C. STARGELL
BROC L. STARRETT
DARREN D. STASTNY
BRUCE A. STAUFER
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CHAD J. STEEL
ERIC D. STEELE
GEOFFREY M. STEEVES
MICHAEL D. STEFANOVIC
JEFFREY D. STEINBRINK
DOUG C. STEINERT
CHADWICK M. STEIPP
JESSICA R. STELLING
RONALD N. STENCEL
DEREK A. STENEMAN
CHRISTOPHER R. STEPHENS
DARREN H. STEPHENS
SAMUEL A. STERLIN
CHRISTINE A. STEVENS
KAREN L. STEVENS
ROBERT D. STEVENS
ANN M. D. STEVENSON
ERIC W. STEVENSON
BRANDON C. STEWART
DIRK ORN STEWART
HELEN STEWART
SCOT JACOB STEWART
ZACHARY ROY STEWART
JOSHUA B. STIERWALT
DANIEL F. STIMPFEL
CODY D. STIVERSON
MICHAEL J. STOCK
MERRILL L. STODDARD
TOMASZ P. STOKLOSA
JAMES A. STONE
JAMES L. STONE
SCOTT J. STONE
SETH D. STORMS
WILLIAM F. STORMS
ELISE V. STRACHAN
BRIAN L. STRACK
GINA M. STRAMAGLIO
JEFFREY P. STRANGE
BRIAN K. STRICKLAND
TRESA ANN STRICKLAND
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WHITNEY L. STRINGHAM
MATTHEW D. STROHMEYER
PAUL B. STROM
JODY B. STRONG
CHRISTOPHER S. STROUP
RONNIE B. STUBBLEFIELD
PAUL D. STUCKI
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CARL W. STUMPF
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MARK A. SULLIVAN
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JOSE R. SURITA, JR.
ROBERT A. SURREY
LUKE C. SUSTMAN
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ANTHONY D. SWAIN
WALTER B. SWAIN III
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JEANNIE C. SWANSON
MATTHEW J. SWANSON
MICHAEL DAVID SWARD
JENNIFER SWAZAY
DAVID RICHARD SWEET
LAYLA M. SWEET
RICHARD W. SWENGROS
MARK T. SZATKOWSKI
KARLA A. TAFF
YURI P. TAITANO
JOHN A. TALAFUSE
ALAN S. TALBERT
TODD E. TALBOTT
EDWARD W. TALLEY
HOWARD TANG
KATHERINE A. TANNER
KEVIN G. TANNER
NATHAN A. TARVER
DARIN R. TATE
JASON C. TATE
JOHN P. TATE
ERIC TATUM
ANDREA K. TAYLOR
GLENN P. TAYLOR
AMY BOWEN TEAGUE
SEAN T. TEAGUE
LUCAS J. TEEL
BRANDON J. TELLEZ
BRANDON J. TELLEZ
MARTIN T. TEMAAT
BRIAN S. TEMPLE
JULIO C. TERRERO
SHANE M. TERRY
ZACHARY S. TERRY
PHONG THACH
BRIAN M. THARP
RYAN L. THEISS
LINDA J. THIERAUF
LENA THIEU
JIMMY H. THIGPEN
SOUNTHAVONE THIPHAVONG
JASON T. THIRY
ILLYA K. THOMAS
JAMES J. THOMAS
JEREMEY T. THOMAS
MALAKIA K. THOMAS
THERESA A. THOMAS
WILLIAM D. THOMAS
ARTHUR A. THOMPSON
HARLAN K. THOMPSON
KIMBERLIE E. THOMPSON
KRISTEN D. THOMPSON
LARNELL S. THOMPSON
MICHAEL A. THOMPSON
MICHAEL J. THOMPSON
SEAN W. THOMPSON
SHAUNDAL T. THOMPSON
LEE C. THOMSON
SCOT A. THORNHILL
PAUL D. THORNTON
DYLAN G. THORPE
KEITH W. TICKLE
JOSEPH W. TIMBERLAKE
CLIFTON D. TINKHAM
GLEN D. TITUS II
ADAM P. TOBIAS
JOSEPH C. TOBIN
RONALD J. TOLER
NATHANAEL B. TOLLE
JUSTIN C. TOLLIVER
JAMES D. TORRES
LESLIE KAHIMENEON TORRES
PHOENIX L. TORRIJOS
KENNETH J. TOSO
LINDSAY M. TOTTEN
JOSEPH N. TOUP
SCOTT G. TRAGESER
KELLY R. TRAVIS
KEVIN M. TREAT
BRIAN J. TREBOLD
ROBERT J. TREST
BROCK A. TRIPLETT
JOSHUA J. TROSCLAIR
JULIO C. TRUJILLO
STEVEN E. TUGMAN
JOSHUA W. TULL
ERICK A. TURASZ
JAMES K. TURNER
JOHN P. TURNER
RICKEY D. TURNER
SANDRA M. TURNER
THOMAS A. TURNER
MATTHEW L. TUZEL
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RONALD G. TYCER
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DAVID C. UNDERWOOD
JEFFREY R. UNDERWOOD
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VHANCE V. VALENCIA
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MIGUEL A. VALLE III
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KEITH W. VANDERHOEVEN
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WARREN S. VANDIVER
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ERIC S. VANLEY
LANCE A. VANN
RICHARD M. VANSCHOOR
RYAN M. VANVEELEN
CRISTOPHER A. VARGAS
CLINTON S. VARNER
JONATHAN A. VAROLI
CLINTON B. VARTY
BRIAN M. VASQUEZ
MICHAEL R. VASQUEZ
DANIEL L. VAUGHAN
JIMMIE C. VAUGHAN
LEWIS M. VAUGHN III
RICHARD E. VAUGHN, JR.
IAN A. VEATCH
MATTHEW J. VEDDER
RAMON L. VEGLIO
JAVIER VELAZQUEZ
GREGG M. VELEZ
AUBREY M. VENABLE
LORENA VENEGAS
RYAN R. VENHUIZEN
JAMES W. VENTERS
MICHAEL A. VERBITSKI
MARTIN D. VERMEULEN
STEVEN L. VESTEL
IVEN M. VIAN
ANTHONY L. VIEIRA
JOSEPH R. VIGUERIA
DERRICK S. VINCENT
MATTHEW R. VINCENT
DAVID M. VOITIER
BRENDAN J. VOITIK
DUANE J. VOLLMER
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ANDREW R. VRABEC
ELWOOD T. WADDELL
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JOHN P. WAGEMANN
JAMIE M. WAGGONER
JEREMY C. WAGNER
TERRY L. WAGNER
TIMOTHY S. WAGNER
ROBERT D. WAIDER
RUSSELL E. WAIGHT
CYNTHIA A. WAITE
STEVEN D. WALD
CORY W. WALDROUP
DANIEL S. WALKER
IAN N. WALKER

KERI L. WALKER
PATRICK J. WALKER
THOMAS V. WALKER
JOSEPH D. WALL
THOMAS E. WALLACE
BRIAN D. WALLER
CLINTON J. WALLER
DAVID J. WALLS
BRIAN G. WALSKI
BRYAN J. WALTER
DARRELL A. WALTON
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CHRISTOPHER J. WARD
ERIC J. WARD
ROBERT A. WARD
CHARLES T. WARE
JAMES E. WARE
JAMES D. WARREN, JR.
RANDY D. WARREN
STEVEN G. WARREN
CHAD L. WATCHORN
RICHARD H. WATERS
STEVEN G. WATERS
GREGORY M. WATSON
JOHN W. WATSON
JOSEPH P. WATSON
JUSTIN T. WATSON
ALEXANDER L. WAXMAN
BARRY S. WEAVER
RICHARD A. WEBB
TIMOTHY R. WEBB
JESSICA A. WEDINGTON
JOSHUA C. WEED
MARK A. WEGER
TIMOTHY C. WEGNER
GRZEGORZ STAN WEGRZYN
KRISTIN J. WEHLE
SHANE A. WEHUNT
HAYES J. WEIDMAN
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MICHAEL D. WELLER
LISA D. WELMERS
CARRIE E. WENTZEL
MATTHEW J. WENZEL
JASON T. WERNER
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DANIEL L. WESTER
INGEMAR S. WESTPHALL
PAUL WEVER
REBECCA E. WEYANT
MICHAEL A. WHEELER
GLENDON C. WHELAN
JENNIFER L. WHETSTONE
NATHAN ALLAN WHITAKER
TIMOTHY G. WHITE
VAUGHAN T. WHITED
DOUGLAS W. WHITEHEAD
TANDY R. WHITEHEAD
JASON A. WHITFORD
PAUL R. WHITSEL
BENJIMAN C. WHITTEN
NICHOLAS J. WHRITENOUR
STEVEN P. WICK
TONY M. WICKMAN
RAY BLAINE WIDDISON
JASON A. WIGGINS
LOWELL B. WIGGINS
DORSEY C. WILKIN
TRAVIS G. WILLCOX
LEROY S. WILLEMSEN
MICHAEL J. WILLEN
JASON P. WILLEY
DAVID W. WILLHARDT
MICHAEL D. WILLHIDE
CRAIG L. WILLIAMS
EDWARD C. WILLIAMS, JR.
GENE P. WILLIAMS
JAMAL D. WILLIAMS
JEREMY E. WILLIAMS
JOHN R. WILLIAMS III
JOSHUA P. WILLIAMS
KELLEN M. WILLIAMS
MARK L. WILLIAMS
PATRICE L. WILLIAMS
ROBIN S. WILLIAMS
RYAN R. WILLIAMS
SCOTT J. WILLIAMS
TIMOTHY S. WILLIAMS
TODD C. WILLIAMS
DEREK L. WILLIAMSON
CHRISTOPHER M. WILLIS
SHAWN M. WILLIS
WILLIAM S. WILLIS
BILLY R. WILSON, JR.
CHARLES E. WILSON IV
CHRISTOPHER G. WILSON
DAVID A. WILSON
JOHN D. WILSON
LARA L. WILSON
STEPHANIE Q. WILSON
STEPHEN W. WILSON
THOMAS K. WILSON
JEREMY D. WIMER
JAMES L. WINKELHAKE
JAMES M. WINKLESKI
RICHARD F. WINN
TRAVIS M. WINSLOW
JIMMY DEAN WINTERS
CYNTHIA E. WITTNAM
MATTHEW R. WITTNAM
DANIEL B. WOLFE
JASON B. WOLFF
BRYAN K. WONG
RYAN M. WONG
COLETTE A. WONGMANEE
JEREMY A. WOOD
KRISTEN N. WOOD
MATTHEW J. WOOD
MEGAN K. WOOD
MICHAEL R. WOODRUFF
CASEY Y. WOODS
JESSICA E. WOODS
MARC A. WOODWORTH
CECIL EARL WOOLARD, JR.
TAD W. WOOLFE
WILLIAM D. WOOTEN
BRADLEY R. WORDEN
TIMOTHY C. WORTHINGTON
DAVID A. WRAY
JOHN M. WRAZIN
JAMES M. WRIGHT
VIRGINIA J. WRIGHT
STEVEN P. WYATT
REBECCA A. WYFFELS
MARK S. WYNN
DAVID J. WYRICK
BRYANT T. WYSOCKI
MICHAEL L. YAMZON
JASON T. YEATES
ELIZABETH A. YESUE
EDWARD F. YONCE
ROGER D. YOON
JACQUELINE B. YOUNG
KEITH C. YOUNG
MARGARET A. YOUNG
MICHAEL J. YOUNG
THOMAS J. YOUNG
MATTHEW J. YOUNGMEYER
PASCUAL ZAMUDIO
JOHN ZANFARDINO
FERNANDO L. ZAPATA
ERIC J. ZARYBNISKY
GREGORY M. ZELINSKI
JASON M. ZEMLER
NICHOLAS G. ZERVOS
MATTHEW J. ZIEMANN
JOHN C. ZINGARELLI
BARBARA L. ZISKA
JONATHAN R. ZITO
DENNIS A. ZOLTAK
CAROLOS J. ZOURDOS
BRANDON A. ZUERCHER
JASON C. ZUMWALT
PETER W. ZUMWALT

CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, March 3, 2010:

DEPARTMENT OF STATE

LAURA E. KENNEDY, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS U.S. REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT.

EILEEN CHAMBERLAIN DONAHOE, OF CALIFORNIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE UNITED STATES REPRESENTATIVE TO THE UN HUMAN RIGHTS COUNCIL.

DEPARTMENT OF HOMELAND SECURITY

ELIZABETH M. HARMAN, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY.

FEDERAL TRADE COMMISSION

JULIE SIMONE BRILL, OF VERMONT, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2009.

EDITH RAMIREZ, OF CALIFORNIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LILLIAN A. SPARKS, OF MARYLAND, TO BE COMMISSIONER OF THE ADMINISTRATION FOR NATIVE AMERICANS, DEPARTMENT OF HEALTH AND HUMAN SERVICES.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PAUL R. VERKUIL, OF FLORIDA, TO BE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES FOR THE TERM OF FIVE YEARS.